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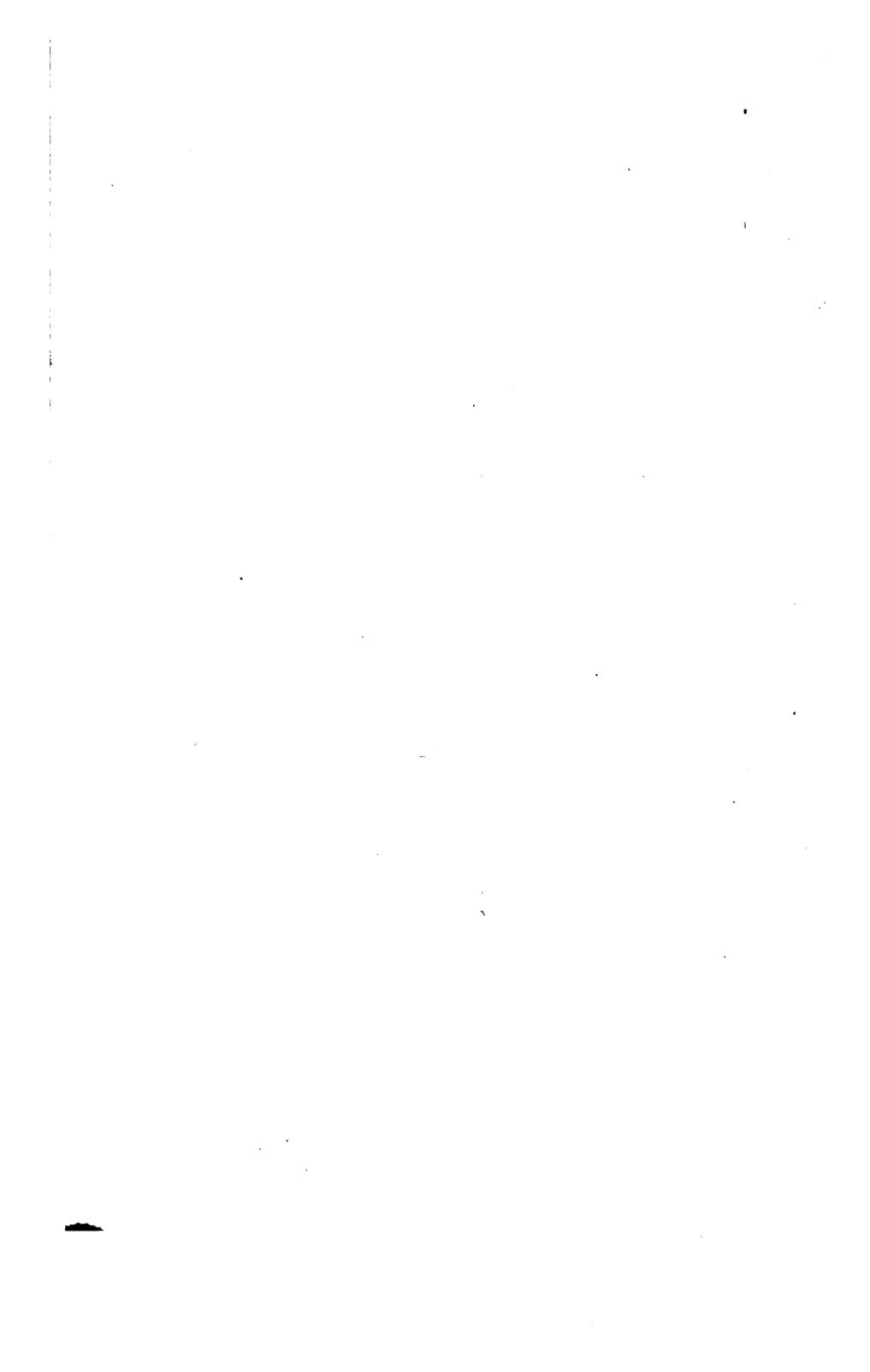
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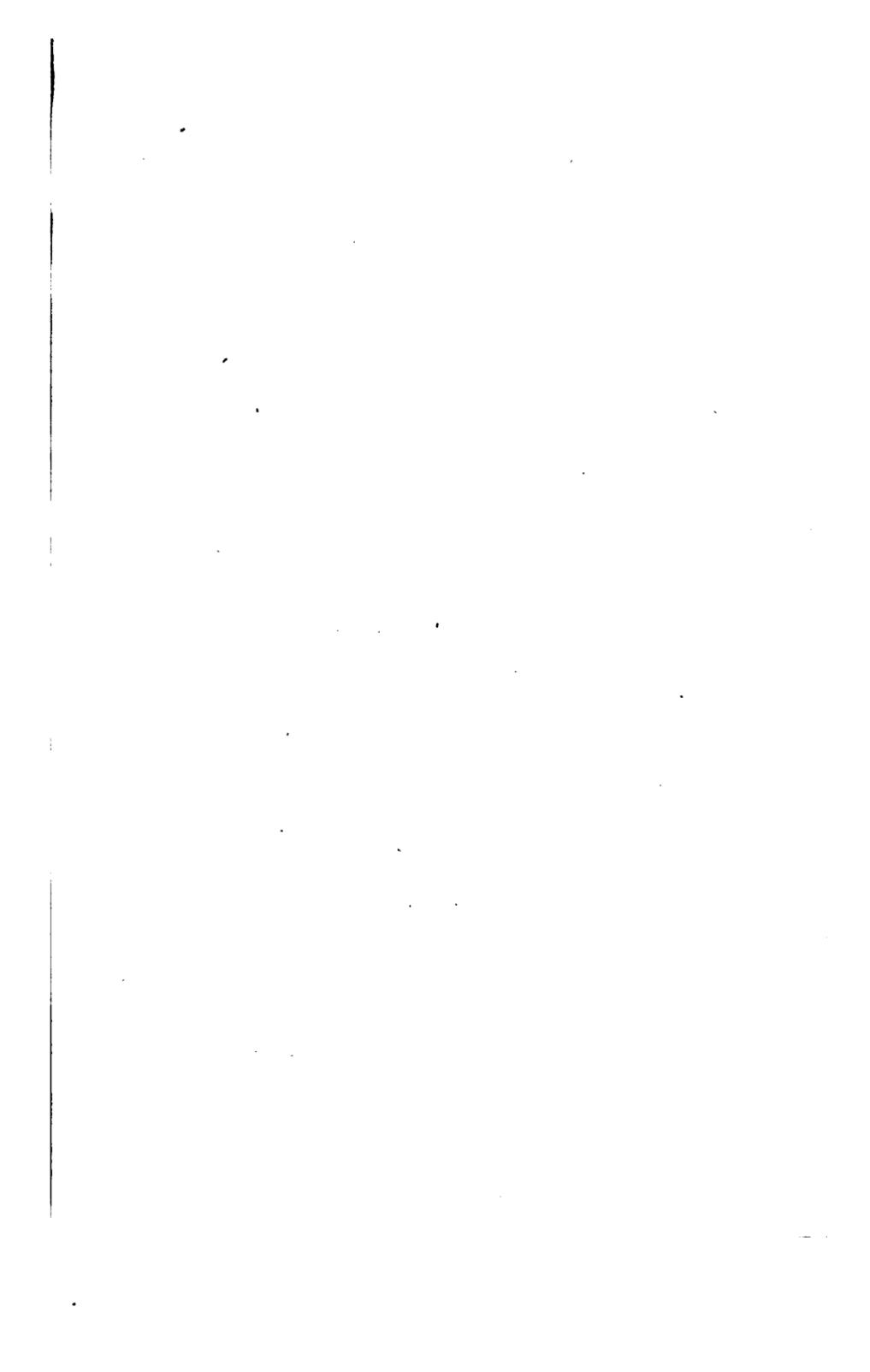
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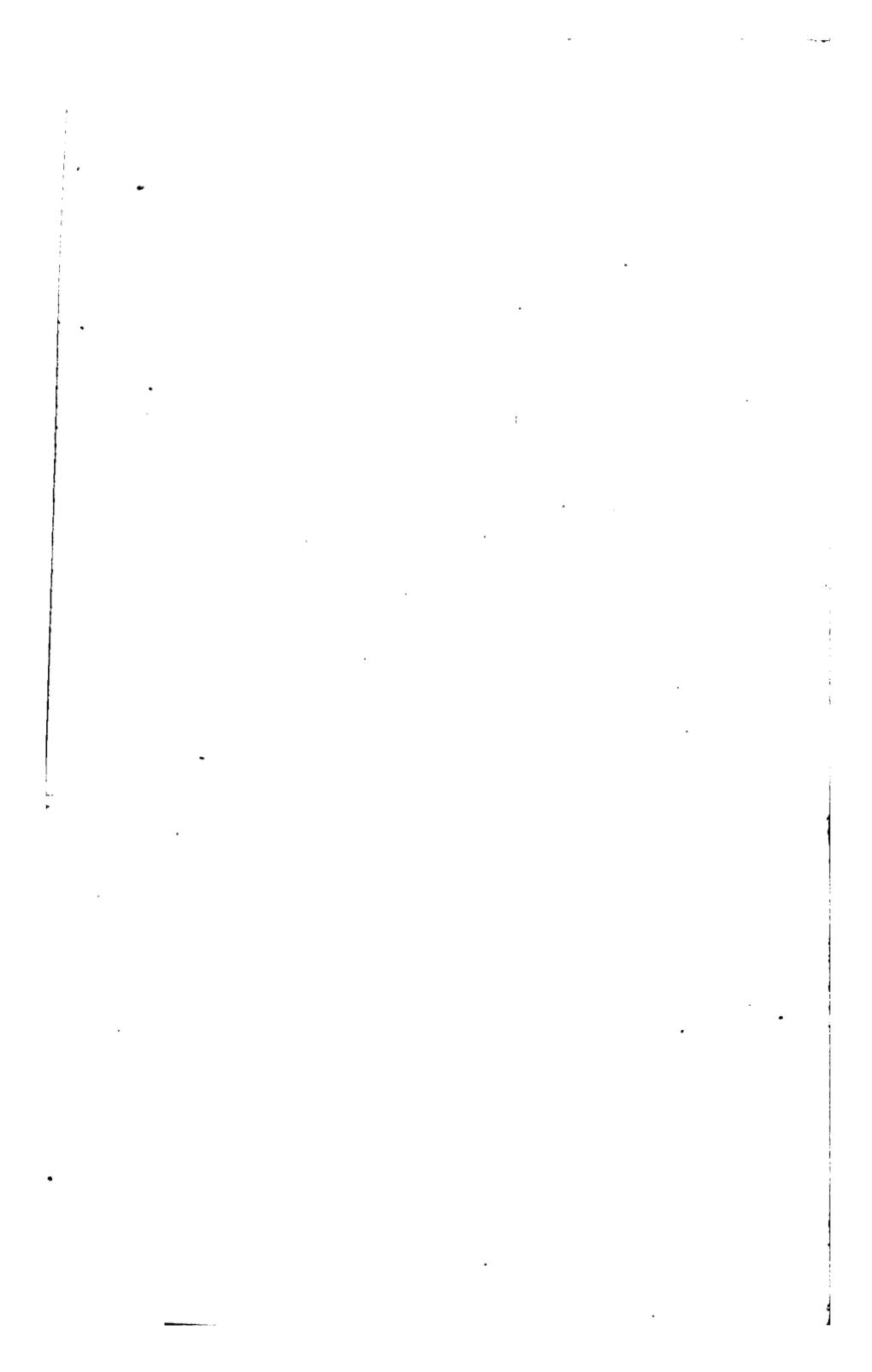


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# LIVES

OF THE

## LORD CHANCELLORS OF ENGLAND.

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### CHAPTER XXXVII.

#### LIFE OF SIR WILLIAM PAULET, LORD PAULET OF ST. JOHN BASING, EARL OF WILTSHIRE AND MARQUESS OF WINCHESTER, LORD KEEPER OF THE GREAT SEAL.

As this individual held the Great Seal of England in his own right above seven months,—according to the plan of this work, I am called upon here to introduce a sketch of his life; but as he had little connection with the law, and was not a very interesting character, although for long tenure of high office he exceeded all the statesmen of the century in which he lived,—my memoir of him shall be very brief. He accounted for his not being upset by any of the storms which assailed him, by saying that he was “a willow, and not an oak,” and there would be no great pleasure or instruction in minutely observing his *bendings*.

He was born about the year 1476, and was the only son of Sir John Paulet, of a very ancient family in Somersetshire. One of his ancestors was a serjeant at law in the reign of Henry V.\* Having studied at the University, he was removed to the inns of Court,—but more with a view to general education than to qualify him for the law as a profession; and it is doubtful whether he was ever called to the bar.

He was of a cheerful temper, pleasing manners, moderate abilities, and respectable acquirements. Exciting no envy or jealousy, he had every one’s good word, and accommodating himself to the humours of all, all were disposed to befriend him.

By his family interest he was soon introduced at Court, and gaining the favour of Henry VIII., was made by him Comptroller and Treasurer of the Household. He was thus near the person of the Sovereign, and had occasionally the honour to tilt with him and to play

\* Rot. Cl. 3 Hen. 5. m. 20.

with him at primero,—taking care always to be worsted, after a seeming exertion of his utmost skill. So successful were these arts, that without any greater service, on the 9th of March, 1539, he was raised to the Peerage by the title of Baron St. John, of Basing, and three years after he was made a Knight of the Garter.

He accompanied the King as an amusing courtier rather than as a [A. D. 1544.] military officer, in the expedition into France, in which Paris might easily have been surprised, but which terminated in the capture of Boulogne, and the fruitless siege of Montreuil. He was soon after promoted to the office of Grand Master of the Household.

When Henry's will was to be made for arranging the government [A. D. 1546.] of the country during the approaching minority, both parties counted with confidence on the co-operation of Lord St. John; and his name was inserted with general approbation in the list of the Executors.

Guided by his principle of siding with the strongest, on the accession [JAN. 1547.] of the New Sovereign he supported the election of Somerset as Protector, and concurred in the measures by which Wriothesley was deprived of the office of Chancellor, and banished from the council.

The Protector, having got the Great Seal into his hands, was in great perplexity as to how he should dispose of it. Wishing to depress the clergy, he was unwilling to recur to the practice of giving it to an ecclesiastic; and he was determined to advance the Reformation, with the principles of which the blending of civil and spiritual employments was deemed incompatible. Besides, Archbishop Cranmer certainly would not have accepted the office of Chancellor himself, and probably would not have liked to see it bestowed on any other prelate who might thus have eclipsed him. Rich, who had gained such unenviable notoriety on the trials of Bishop Fisher and Sir Thomas More,—a cunning and experienced lawyer—had become Lord Rich, and one of the Executors;—but there was the greatest reluctance to promote him farther, from his general bad character, and the special reasons which convinced Somerset that no confidence could be reposed in his fidelity.

There being no other producible lawyer belonging to the party, Somerset resolved to take time for consideration, and in the meanwhile, to place the Great Seal in the hands of some one who might do its routine duties, who could not be formidable to him, and from whom he might resume it at pleasure. Such a man was Paulet Lord St. John.

Accordingly, on the 7th of March, 1547, the Protector having received the Great Seal from the messengers he had sent to demand it from Wriothesley, went through the ceremony of presenting it to the infant King, and then, in his Majesty's name, delivered it to St. John, with the title of "Lord Keeper,"—to be held by him for a fortnight, with all the powers and emoluments belonging to the office of Lord Chancellor.\*

\* The entry on the Close Roll, after stating the King's acceptance of the Great Seal (which must have been shown to him as a toy), thus proceeds:—“ Quo die

In a few days after, the Lord Keeper, by order, put the Great Seal to the letters patent, setting aside the will of Henry VIII., and constituting Somerset Protector, with unlimited power, till the young King should reach his majority; and proving an apt instrument, as far as politics were concerned, there were successive grants to him of the office of Lord Keeper—till the 29th of May,—till the 6th of July, and till the Feast of All Saints;—he, on each occasion, going through the ceremony of returning the Seal into the King's hands, and receiving it back again for the extended time.\*

But, at last, the complaints of the suitors and the public voice, which even then could not long be entirely disregarded, required that some new arrangement should be made to despatch the judicial business of the Court of Chancery, for which the Lord Keeper, with all his plausibility, had shown himself to be quite incompetent. He contrived to get through Easter and Trinity terms by postponing the hearing of causes, and taking time to consider his judgments, and pretending that it was necessary for him to leave the Court of Chancery that he might sit in the Star Chamber, or attend the Council. The long vacation came to his relief; but Michaelmas term was approaching, and he himself, with his usual discretion, begged that he might be permitted to resign.

The Protector had no longer any choice; and, on the 23d of October, 1547, before All Saints' day arrived, Lord St. John resigned the Great Seal into the King's hands at Hampton Court; and it was delivered to RICH, with the title of Lord Chancellor.†

Lord St. John, after his resignation, remained true to his party till the Protector's fall was certain; and then going over to Wriothesley, attended the meetings of the Executors, held in Ely Place, which

*circa horam primam post meridiem prefatus Dns Rex Sigillum suum prum apud Palm suum prum in sua privata camerā in presencia &c. p̄fū nobili viro Willo Seynt John per spacium quatuordecim dierum prx sequent. scdm beneplacitum regium custodiend. exercend. et utend. comisit et tradidit, ipsumque Willm Dnm Seynt John adtunc et ibidem custodem Magni Sigilli Regi fecit ordinavit et constituit Hend pr termino et per spacm quatuordecim dier. sedm beneplacitum regium cum omnibus et singulus auctoritatibus, &c., que Cancellariis Anglie p̄tu officii sui fcre et exre consuerat posset et valeat.”* It then goes on to record that the new Lord Keeper, in the King's presence, having taken the Seal from the bag and sealed a *dedimus protestatem* with it, returned it into the bag and carried it off with him.—R. Cl. 1 Ed. 6. m. 14.

\* These are the only instances I find of the Great Seal being granted for a term certain,—the grant, where not during pleasure, having been for life or upon a contingency, such as the illness or absence of the Chancellor.

† “Idemque Dmns Rex de avisamento et consensu precarissimi avunculi sui Edwardi Ducis Somers p̄ne sue Regie Gubernatoris et Regn. et subditor. suor. Protectoris ceteraq. consilii surum, tunc et ibidem Sigillum illud in baga p̄ca ut erat inclusum spectabili et honorabili viro Rico Riche militi Dno Riche custodiend. utend. et exercend. tradidit et libavit ipsmq. Ricum Riche Cancellarium suum Anglie adtunc et ibidem fecit, &c.” — Rot. Cl. 1 Ed. VI.

brought about a revolution in the government. He hesitated for a moment between the rival chiefs of the victorious party, but, seeing Dudley Earl of Warwick was the more powerful, he joined in those measures which drove Wriothesley from the Council, and broke his heart.

The Ex-Lord Keeper was rewarded with the office of Lord High Treasurer, which he contrived to hold under three successive reigns, while there was sometimes a Protestant and sometimes a Roman Catholic Sovereign on the throne, and while many of his colleagues were disgraced, imprisoned, beheaded or burnt.

In 1551 he showed his aptness for office by presiding, as Lord High Steward, on the trial of his benefactor the Duke of Somerset, who, having escaped from the great peril which first assailed him, and having been pardoned and discharged from the Tower on paying a large fine, had again incurred the resentment of his rival, now become Duke of Northumberland, and had excited great jealousy by the marks of returning favour bestowed upon him by the youthful King.

His death was therefore determined upon. On the 17th of October, 1551, he was committed to the Tower on a charge of treason, and he was brought to trial, before the Lord High Steward, on the 1st of December following. According to usage, Rich, the Lord Chancellor, ought to have presided; but, although he had given an opinion upon his guilt in the Star Chamber, he managed to throw the odious and unprofitable task of trying him upon Paulet, who, having been before made Earl of Wiltshire, was now gratified with the title of Marquess of Winchester.

The trial took place in Westminster Hall, the Lord High Steward "sitting under the cloth of state, upon a bench between two posts three degrees high."\*

The only evidence produced consisted of the written depositions of witnesses who could not be brought to state more than that Somerset had engaged in a plot to imprison the Duke of Northumberland, the Marquess of Northampton, and the Earl of Pembroke. An objection was made by the prisoner, that these three ought not to sit as Judges on his trial, the charge being for practices against them; but the Lord High Steward ruled that "no challenge lies against a Peer of England, who, giving his verdict, without oath, on his honour, must be presumed to be absolutely free from favour or affection, hatred or malice."

The prisoner required to be confronted with the witnesses; but he was told that, according to well-considered precedents, "where the King was concerned, the written depositions of witnesses taken privately by the King's Council, in whose good faith, impartiality, and cunning, the law reposes entire confidence, were sufficient."

A difficulty still remained, supposing the witnesses were believed, — to make out the plot to be treason. Although the counsel for the Crown argued, "with much bitterness," that it was clear treason, Northumberland himself declared he would never consent that any practice against him should be reputed treason.

The Lord High Steward decided, that “if it was not treason, it was felony.” Thereupon all the Lords acquitted Somerset of treason, a majority found him guilty of felony, and the Lord High Steward sentenced him to be hanged.\*

Burnet says, it was generally believed that all the pretended conspiracy, upon which he was condemned, was only a forgery; and, indeed, the not bringing witnesses into Court, but only the depositions, and the parties sitting Judges, gave great occasion to condemn the proceedings against him.† But, according to the notions of the times, the Ex-Lord Keeper was not much worse thought of for this specimen of his judicial powers, and he continued to enjoy a pretty fair reputation.

On the death of Edward VI. he first took part with Lady Jane Grey; but, by the unerring instinct which ever guided him, [JULY, 1553.] he was the first to leave her party, and go over to Queen Mary, who was so much pleased, that she forgave him, and renewed his patent of Lord High Treasurer. During her reign he remained very quiet, and taking example by the fate of Cranmer and others, he conformed very rigidly to the reigning religion, and without actively urging persecution, would by no means run any risk of giving offence by trying to restrain or soften it.

On the accession of Elizabeth he avoided the scandal of an abrupt change of religion; but he soon fell in with the system established by her; and though she placed all her [A. D. 1558.] confidence in Cecil, she allowed the wily old courtier still to enjoy his place of Lord Treasurer till his death in 1572, when he was in his 97th year, and had 103 descendants to attend him to the grave.

It was shortly before his death that, being asked “how he did bear up in those dangerous times wherein great alterations were made both in Church and State,” he returned the noted answer, “By being a willow, and not an oak.” No one, however, will be seduced to follow his example who has any regard to posthumous fame, for his existence is now known only to dull biographers, genealogists, and antiquaries, and is discovered only to be contemned;—while the name of Sir Thomas More will continue to be familiar as household words in the mouths of all Englishmen, and will be found honoured and revered to the latest generations.‡

\* 1 St. Tr. 520.

† Burn. Ref. ii. 186.

‡ Sir James Mackintosh, when speaking of “the versatile politicians who had the art and fortune to slide unhurt through all the shocks of forty years of a revolutionary age,” says, “the Marquess of Winchester, who had served Henry VII., and retained office under every intermediate government till he died in his 97th year, with the staff of Lord Treasurer in his hands, is perhaps the most remarkable specimen of this species preserved in history.”\* But more scandal was excited in his own time by William Herbert, whom Henry VIII. created Earl of Pembroke. Having followed all the fantasies of that monarch, and obtained from him the dissolved monastery of Wilton, he was a keen Protestant under Edward VI., and one

\* Mackintosh’s History of England, vol. iii. p. 155.

The Marquess of Winchester married Elizabeth, daughter of Sir William Capel, Lord Mayor of London, and by her had four sons and four daughters, who were all married, and left a numerous progeny. His descendants distinguished themselves highly in the civil and military service of their country. The Sixth Marquess was, in the reign of William and Mary, created Duke of Bolton. After a succession of six Dukes, this title became extinct in 1794, by the death of Harry Duke of Bolton without male issue ; but the Marquise was inherited by the father of the present gallant representative of this illustrious house, who, lineally descended through males from the Lord Keeper, is the premier Marquess in the peerage of England.\*

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### CHAPTER XXXVIII.

#### LIFE OF LORD CHANCELLOR RICH.

WE now come to a Chancellor of whose infamy we have already had several glimpses, and who was through life a very consistent character in all that was base and profligate. RICHARD RICH was descended from a commercial family that had flourished in the city of London from the time of Henry VI.—the founder having acquired great opulence as mercer, and served the office of Sheriff of London and Middlesex in the year 1441. His epitaph, in the church of St. Lawrence Poultney, shows more piety than poetry :

“*Respic quod opus est præsentis temporis avum  
Omne quod est nihil est præter amare Deum.*”

His son followed his trade, and was well esteemed as a plain London merchant, not wishing for more dignity than to be elected deputy of his ward. The grandson, however, who is the subject of this memoir, early displayed an aspiring genius, and a determination to have all the pleasures of life without patient industry, or being very scrupulous about the means employed by him to gain his objects.

He was born in the city of London, in a house near that occupied by Sir John More, Judge of the Court of King's Bench, and he and young Thomas More were intimate, till, on account of his dissipated habits, all who had any regard to character were obliged to throw

of the first to acknowledge and to desert Queen Jane. Mary having restored Wilton to the nuns, he is said to have received them “cap in hand ;” but when they were suppressed by Elizabeth, he drove them out of the monastery with his horse-whip, bestowing upon them an appellation which implied their constant breach of the vow they had taken.

\* See *Grandeur of Law*, p. 15.

him off. While yet a youth, he was “esteemed very light of his tongue, a great dicer and gamester, and not of any commendable fame.”\*

He does not seem ever to have been at any University ; but his father, finding there was no chance of his applying to the business of the counting-house, agreed to his request, that he might be bred to the bar, and entered him of the Middle Temple. For some time there was no amendment of his life ; and, instead of attending readings and mootings, he was to be found in the ordinarys, gaming-houses, and other haunts of profligacy in White Friars, which had not yet acquired the name of “*Alsatia*,” though infamous for all sorts of irregularities.

Nevertheless, he had occasionally fits of application ; and being of quick and lively parts, he laid in a pretty stock of legal learning, which, turned to the best account, enabled him to talk plausibly on black-letter points in the presence of attorneys, and to triumph at times over those who had given their days and nights to Bracton, Glanville, and the Year Books. In the 21st of Henry VIII., he was appointed “Autumn Reader” of his house, and acquitted himself with applause. He was still in bad odour with his contemporaries ; for besides his dissolute habits, no reliance could be placed on his honour or veracity. By evil arts, he rose into considerable practice ; and while Sir Thomas More was Chancellor, recommending himself to the Duke of Norfolk, and the party who were hurrying on a breach with Rome, he was, in 1532, appointed for life Attorney General of Wales. The Great Seal being transferred to Audley, Rich was taken regularly into the service of the Crown, and was ever ready to assist in imposing the new-fangled oaths, or examining state prisoners before trial, or doing any dirty work by which he might recommend himself to promotion. So successful was he, that in 1533 he was appointed Solicitor General to the King, and the most dazzling objects of ambition seemed within his reach.

We have seen how he laid a trap to betray Bishop Fisher and Sir Thomas More under the guise of friendship ; and how he disgraced himself at the trial of the former by disclosing what had been communicated to him in private confidence ;† and how he perjured himself on the trial of the latter by inventing expressions which had never been used, when mere breach of confidence, and his skill as a counsel, could not obtain the required capital conviction.‡

I know not whether, like Lord Chancellor Audley, he ever openly urged “the infamy he had incurred in the service of the government” as a claim to favour ; but there can be no doubt that this was well understood between him and his employers, and, in 1535, he was rewarded with the wealthy sinecure of Chirographer of the Common Pleas.

In 1537, an insult was put upon the House of Commons, which

\* Speech of Sir Thomas More on his trial. — More, 265.

† Ante, Vol. I. Ch. XXXIII.

‡ 1 St. Tr. 385.

shows most strikingly the degraded state to which parliament was reduced in the reign of Henry VIII. On the recommendation of the Court, Rich, whose bad character was notorious, and who was hardly free from any vice except hypocrisy, was elected Speaker. We have seen how he repaid this promotion by comparing the King, on the first day of the session, for prudence to Solomon, for strength to Samson, and for beauty to Absalom ; and, on the last, to the sun, that warms, enlightens, and invigorates the universe.\*

While Speaker, he rendered most effectual service in reconciling the Commons to the suppression of the greater monasteries, and the grant of all their possessions to the King.

These were now put under the management of a royal commission, and Rich was placed at the head of it, with the title of "Chancellor of the Court of Augmentations." His first care was to augment his own fortune ; and he got a grant of the dissolved Priory of Lighes, in Essex, and of other abbey lands, of immense value, which were found a sufficient endowment for two Earldoms, enjoyed by his sons.

He gave himself no trouble about the religious controversies which were going forward, and, except that he became the owner of such a large portion of church property, it could not have been suspected that he was a friend of the new doctrines more than of the old.

He felt some disappointment at not succeeding to the Great Seal on the death of Audley, though greatly comforted by the increased means he enjoyed of amassing wealth. He had been a spendthrift in his youth, but cupidity grew with his riches, and he was become saving and penurious. In 1544 he was made Treasurer of the King's wars in France and in Scotland, an office by virtue of which the whole of the expenditure for the pay and provisioning of the army passed through his hands, and which afforded ample scope for his propensity to accumulate. Soon after the capture of Boulogne, he was one of the Commissioners who negotiated the peace between France and England.

He was now in high personal favour with Henry, conforming himself to all his caprices, and assisting at the Council board in examining and committing Lutherans for a violation of the Six Articles, and Roman Catholics for hesitating to acknowledge the King's spiritual supremacy. When the King's will was made, he was appointed one of the sixteen Executors who were to carry on the government during the minority of Edward,—both parties being suspicious of him, but each party expecting from his professions to gain him.

On the demise of the Crown the Great Seal seemed within his reach, if it could be made to fall from the hand which held it, and he did his utmost to widen the breach between the Chancellor and the Protector. He was supposed to suggest the expedient of bringing

the charge against Wriothesley of issuing the illegal commission to hear causes in Chancery, and to refer to the Judges the question of its validity, and the nature and punishment of the offence of fabricating it. He had been included in the great batch of Peers, along with most of the Executors, who ennobled themselves, or took a step in the Peerage, under pretence that these honours were intended for them by the late King. Most of the Commoners now promoted took new and high sounding titles; and it might have been expected that the witness against Fisher and More would have become "Lord *Lighes*;" but whether he was afraid that some scurvy jests might have been passed upon this title as personal rather than territorial, he preferred to be "Lord Rich,"—and by this title he was made an English Baron.

When the Great Seal had actually been wrested from the fallen Wriothesley, the new Lord thought that, as a matter of course, it must at once be handed over to him, and he was exceedingly indignant to find it intrusted to Paulet, who was no lawyer, and who had never done, and who was never likely to do, any very signal service to the Crown. He made no open remonstrance, even when the ceremony of the delivery of the Great Seal to Paulet as Lord Keeper was from time to time repeated, but he privately complained of the appointment, and procured others to complain of it as insulting to the profession and detrimental to the public. Paulet's real insufficiency gave effect to these intrigues. The Protector doubted some time whether such an unscrupulous intriguer would be more dangerous to him as an opponent or as a colleague. Timid councils, or a love of present ease, prevailed, and, on the 23d of October, 1547, Richard Lord Rich was appointed Lord Chancellor of England.\*

The ceremony of delivering the Great Seal to him took place at Hampton Court, in the presence of the infant King, in whose name the Lord Protector declared "the royal pleasure that the new Chancellor should hold the office, with all powers and profits that had ever belonged to any of his predecessors." I do not find any account of his swearing in or installation in Westminster Hall.† The old Duke of Norfolk, who had so often presided at such ceremonies, could not have been present, for although he survived, by the seasonable death of King Henry VIII. a few hours before the time appointed for his execution, he was still kept a prisoner in the Tower, from the apprehensions of both parties,— and his attainder was not reversed till the following reign.

Lord Chancellor Rich displayed considerable ability as well as dexterity in discharging the duties of his office, and in combating the dif-

\* Cl. R. 1 Ed. 6.

† The entry in the Close Roll concludes with merely stating that having joyfully received the seal, and extracted it from the bag, he sealed a commission. "Sicque prucus Ricus Dns. Riche curam et custodiam ejusdem Magni Sigilli ac officium Cancellarii Anglie super se assumens Sigillum illud penes se retinuit et retinet in presenti."

ficulties he had to encounter in the conflicts of contending factions. He presided himself in the Court of Chancery, and despatched the whole of the business without assistance till the end of the year 1551,\* when a commission was issued to Beaumont, the Master of the Rolls, and others, to hear causes in his absence.

Although he had retired from the bar a good many years, he had kept up his professional knowledge by attending the mootings in the Middle Temple, by associating with the Masters of the Bench of that learned Society, and by acting as Chancellor of the Court of Augmentations, where he had, from time to time, to hear and decide various legal questions. With discretion to conceal ignorance, a little law goes a great way on the bench, — and the new Chancellor, who was certainly much superior to his immediate predecessor, was pronounced “a great Judge” by the dependants and expectants who surrounded him, — and believed to be “a tolerably good one” by the public in general. In a few terms he nearly cleared off the arrears which he found in the Court; but he afterwards became more remiss, and complaints arose of his delays, notwithstanding his liberal compliance with the usage beginning to gain ground of referring matters of difficulty to the Masters, who were often very expert officers, and although still generally churchmen, were well acquainted with the civil law, and much more familiar with the practice of the Court than “the Keeper of the Royal Conscience.” During the last year he held the Great Seal, he seems to have found sitting in Court so irksome, or he was so much absorbed by political intrigue, that he left the hearing of causes chiefly to the Master of the Rolls and the other Commissioners, whom he appointed to supply his place.† But during the whole time of his continuance in office we are to regard him much more as a minister of state than as a dispenser of justice.‡

A few days after his appointment, the first parliament of the new reign was to assemble; and to gratify the vanity of his patron, he put [Nov. 4, 1547.] the Great Seal to a patent directing, in the King’s name, that the Protector should be placed in the House of Lords on a stool, on the right hand of the throne, under the cloth of state, “*non obstante* the statute 31 H. 8., by which all Peers were to have place and precedence according to their rank in the peerage.”

When the first day of the session arrived, the infant King being

\* Nov. 26, 1551.

† There having been a King’s warrant for putting the Great Seal to this commission, it was free from the objection for which Lord Chancellor Wriothesley was deprived of the Great Seal.

‡ Some of his decrees, rather of an arbitrary character, are to be found in the Registrar’s Book; *e. g.* “Cope v. Watts: — It is ordered by the Lord Chancellor that the plaintiff shall upon his knees ask forgiveness of the defendant, at Daventry, openly, upon such market day as the Lord Chancellor by his letters to some justice of the peace thereabouts to be directed shall appoint.” Then follows a direction for payment of 10*l.* by the plaintiff to the defendant by instalments of five marks. Reg. Lib. A., 3 & 4 Ed. VI., f. 44.

placed on the throne, the Protector on his stool, and the Chancellor on the woolsack, the Commons were summoned to the bar ; but unfortunately, we are disappointed in our wish to know the rest of this interesting ceremony, for the Parliament Roll abruptly terminates with these words, “ The Lord Rich, being Lord Chancellor, began his oration to the effect as follows—.” We may conjecture that, after some compliments to the humane temper and mild rule of the late Sovereign, and the hopeful virtues of his living image, warm congratulations were offered upon the abilities and respect for the law of the Lord Protector, by whose stool the throne was now propped, and to whom the exercise of the royal prerogatives had been deputed till his Majesty should be of maturer years.

In justice to the Lord Protector and the Lord Chancellor it should be mentioned, that they began with repealing some of the most fantastical and tyrannical of Henry’s statutes respecting treason,\* and modifying an act whereby any King of England coming to the throne during his minority might, on reaching the age of twenty-four, vacate *ab initio* all statutes assented to in his name, and providing that this should only be a power to repeal such statutes, leaving untouched all that had been done under them.

But the grand object was to further the Reformation. Lord Rich, since the grant to him of *Lighes* and the other dissolved abbeys, had become a sincere reformer, and was anxious that the breach with Rome might be widened as much as possible, so that there might be no danger of his share of the plunder of the church being wrested from him by a counter revolution in religion. He therefore zealously supported the measures which were brought forward under the auspices of Cranmer for introducing the Lutheran system with modifications in England. Successively he laid on the table bills for establishing the King’s power to appoint Bishops ; for dissolving chantries ; for repealing the bloody act of the Six Articles ; for allowing priests to marry, still with a recital that “ it were more commendable for them to live chaste and without marriage, whereby they might better attend to the ministry of the Gospel, and be less distracted with secular cares ;” and a bill for uniformity of service and administration of the sacraments, whereby the mass book was purified of its errors, and the beautiful Liturgy of the Church of England was established nearly such as it has subsisted down to our own days.

The Lord Chancellor had, ere long, to determine with which of the two brothers he would side, the Duke of Somerset or Lord Seymour

\* The bill for this purpose being considered of great importance, it was referred to a joint Committee of both Houses. “ They were appointed to meet *at two o’clock after dinner*, in order to treat and commune on the purport of the said bill.” — 1 Parl. Hist. 384. The hour of dinner, which had been eleven in the good old times, was now twelve, and sometimes as late as one. It was not then foreseen that a time would come when the two Houses meeting for public business at five, and half-past seven being the hour of dinner, — at seven the one House would break up, and the other would be deserted.

of Sudley ;—for a mortal rivalry had sprung up between them. That quarrel was begun by their wives. Lord Seymour having married the Queen Dowager so soon after the King's death, that had she immediately proved pregnant it was said, a doubt would have arisen to which husband the child belonged,—the Lady Protectress professed to be much shocked at this indecorum, but was, in reality, deeply mortified that the wife of a younger brother should take the *pas* of her, and raised the question whether, by a disparaging alliance, the reginal precedence was not lost ?

This controversy was terminated by the death of the Queen Dowager in childbed. But Lord Seymour himself was ambitious and presumptuous, and dissatisfied with the power he enjoyed as Lord High Admiral,—being now a widower, he aspired to marry the Lady Elizabeth, who was certainly attached to him, and whose reputation had been a little scathed by the familiarity to which she had admitted him.\* He likewise insisted that Somerset could not, according to constitutional principles, be Protector of the realm and guardian of the royal person, and during Somerset's absence in the Scottish war, he prevailed upon the young King to write a letter to the two Houses, intimating his wish to be put under the care of his younger uncle. But the Protector arriving from the North, and expressing a determination to crush his rival, notwithstanding the ties of blood,—Lord Rich at once agreed to concur in the necessary measures for that purpose.

On the 19th of January, 1549, the Admiral was committed to the Tower of London by order of the Council, and, according to the usage of the times, the Chancellor and other Councillors went there to interrogate him upon the charges brought against him. He repelled them with disdain, and required that he should be confronted with his accusers, or, at least, have a copy of their depositions ; but he was told that the demand was unprecedented, unreasonable, and inadmissible. Under the directions of the Lord Chancellor, articles were regularly drawn up against the Admiral for treason,—chiefly on the ground that, with the aid of one Sharington, the Master of the Mint at Bristol, who was to coin false money for him, he had laid a plan for an insurrection to carry off the King and to change the present

\* From the indignant denial by Elizabeth of the reports then circulated, they are believed to be untrue; but certainly the courtship was not conducted with much delicacy. Her governess being examined upon the subject, stated that the moment he was up he would hasten to Elizabeth's chamber “ in his night-gown and bare-legged;” if she were still in bed “ he would put open the curteyns, and make as though he wold come at her;” “ and she wold go farther in the bed so that he cold not come at her.” If she were up, he “ wold ax how she did, and strike her upon the back or the buttocks famyliarly.” Parry the cofferer also says, “ she told me that the Admirale loved her but too well;” at one time as he came into her room while she was beginning to make her toilette, she was obliged to run behind the curtains, “ her maidens being there;” that “ the Quene was jelouse on her and him, and that suspecting the often accesse of the Admirale to her, she came sodenly upon them wher they were all alone, he having her in his armes.”—See 7 Ling. 34 n. The Council deemed it prudent to dismiss her governess.

form of government. He, denying the fact, insisted that the charge did not amount to treason ; for the Protector's power being usurped, contrary to the will of the late King founded on an act of parliament, resistance to it was lawful.

A bill of attainder against Seymour was, however, laid on the table by the Lord Chancellor. To take from himself the responsibility and odium of the proceeding, he then summoned the Judges and King's Council,\* and a question was put to them, " whether the charges, or any of them, amounted to treason ?" The expected answer was given, " that some of them amounted to treason," and the bill proceeded.

The principal evidence consisted of Sharington's conviction, on his own confession ; and several Peers, rising in their places,— to please the Protector, who was present in the House, repeated evidence which they had before given before the Council, to show the Admiral's dangerous designs. The bill passed the Lords without a division or dissenting voice, but met with a very unexpected opposition in the Commons. There the first principles of natural justice were beginning to be a little attended to, and several members, to the horror of the old courtiers, contended that it was unfair to legislate by bill of attainder without evidence, and to condemn a man to death who had not been heard in his defence. The Peers, hearing of this factious opposition, twice sent a message to the Commons, " that the Lords who were personally acquainted with the traitorous designs of the Admiral would, if required, repeat their statement to the nether House." There were a few ultra-radical members still not satisfied. Thereupon another power in the state, to resist which no one was yet so hardy as to venture, was called into action, and the Protector sent a message to the Common's, in the King's name, declaring it to be the opinion of his Majesty that it was unnecessary to hear the Admiral at the bar of the House, and repeating the offer of the evidence which had been considered so satisfactory by the Lords. On receipt of this message there was a cry of " Divide ! divide !" and a division immediately taking place, the bill was passed by a majority of near 400. There were only nine or ten members who had the courage to vote against it.†

Three days after the bill had received the royal assent the Lord Chancellor, at the Protector's request, called a Council to deliberate about carrying it into effect. The Protector withdrew, " out of natural pity," during the deliberation, well knowing it would be resolved that his brother should die on the Wednesday following. He actually signed the warrant for the execution on that day. The second signature was that of Archbishop Cranmer, to whom it probably cost a pang to be concerned in such an affair of blood. The third was that of Lord Chancellor Rich, who

[MARCH 17, 1549.]

\* Viz., the King's Sergeants, and the Attorney and Solicitor General.

† 2 & 3 Ed. 6. c. 18. Burnet, vol. ii. p. 99. 1 Parl. Hist. 587. 1 St. Tr. 497.

rejoiced in the belief that his official life was now likely to be smooth and secure. The Admiral's offence certainly did not amount to more than an attempt to deprive Somerset of usurped authority, and his death added to the list of English legislative murders. There was retribution with respect to some of the most culpable agents in it. Somerset, before long, found verified the prophecy uttered at the time, that "the fall of one brother would prove the overthrow of the other." Cranmer himself perished miserably by an unjust sentence ; and perhaps Rich suffered more than either of them, when, from the fear of similar violence, he resigned all his employments, and gave himself up to solitary reflection on the crime he had committed. Seymour's execution was not looked upon with great horror at the time when it took place ; and Bishop Latimer immediately preached a sermon before the King, in which he highly applauded it.

The Chancellor was grievously disappointed in expecting quiet times, from the bloody termination to the struggle for power which we have described. The Protector became more vain, presumptuous, and overbearing, and to the members of the Council, who, under the late King's will, ought to have been his equals, he behaved as a haughty master to his slaves. He had likewise brought great odium upon himself by the sacrilege and rapine through which he had obtained the site and the materials for his great palace, Somerset House ; and general discontents had caused insurrections in various parts of England.

In a few months after Seymour's death, Lord Rich was again [Oct. 1549.] thrown into the perplexity of making his election between rival factions. As we have before related,\* the discontented members of the Council, headed by Ex-chancellor Wriothesley and Dudley Earl of Warwick, taking advantage of Somerset's unpopularity and weakness, had established a rival government at Ely House in Holborn. Rich was at this time with the Protector at Hampton Court, and accompanied him to Windsor when the young Edward was removed thither, in the hope that "the King's name might be a tower of strength ;" — but when he saw that Somerset was deserted by all parties in the country, and that his power was rapidly crumbling to pieces, he joined the malcontent Councillors, carrying the Great Seal along with him, and took an active part in supporting their cause.

Being born and bred in London, being free of one of the companies, being related to some of the principal merchants, and the livery and apprentices being proud of his elevation, the Lord Chancellor, in spite of his bad private character, had great influence in the City, which then constituted the metropolis, and took the lead in every political convulsion. Having summoned the Lord Mayor, Aldermen, and principal members of the Common Council to Ely House, he made them a long and powerful speech, showing how Somerset had

\* *Ante, Vol. I. Chap. XXXV.*

usurped the Protectorship contrary to the will of the late King — how he had abused the power which he had unlawfully acquired — how he had mismanaged our foreign affairs, by allowing the infant Queen of Scots to be married into the royal family of France — how at home he had oppressed both the nobility and the people — and how, the only chance of rescuing the King from the captivity in which he was then held, and of saving the state, was for the Chancellor's fellow citizens, ever distinguished in the cause of loyalty and freedom, to rally round the enlightened, experienced, and independent Councillors there assembled ; — in whom, by the law and constitution, was vested the right of governing the country in the King's name, till his Majesty had completed his 18th year. This speech was received with the most rapturous applause, and cries of “Down with the Protector! — Long live the King! — Long live the Council! — Long live the Lord Chancellor!”

A proclamation was immediately framed, which Rich was the first to sign, and which was the same day posted all over the city, calling upon all the true subjects of the King to arm in his defence, to obey the orders of his faithful Councillors, assembled at Ely House, and to take measures to prevent the Crown from being taken from his head by a usurper. When news of this movement [Oct. 1549.] reached Windsor, Somerset saw that his cause was desperate ; he surrendered at discretion, and in a few days he was a prisoner in the Tower.

This is the only occasion where Rich played more than a secondary part ; and presently he was acting under the directions of the Earl of Warwick, with whom he had no difficulty in siding against Chancellor Wriothesley ; for if this stern Roman Catholic had gained the ascendancy, not only would he have striven for a reconciliation with Rome, but he would himself have resumed the custody of the Great Seal. He therefore heartily concurred with Warwick in those proceedings after the fall of Somerset which were meant to mortify Wriothesley, and which soon deeply wounded his spirit, and brought him to his grave.

Rich speedily gained a complete insight into the character of Warwick, and felt himself very uncomfortable and insecure under his new master ; — perceiving that, with an open and captivating manner, he was dark, designing, immoderately ambitious, and wholly unscrupulous and remorseless. He could not tell how soon his own turn might come to be transferred to the Tower ; and he knew well that, notwithstanding all his services in the late crisis, if it should at any time suit the convenience of the new ruler to have a vacancy in the office of Chancellor, there would be no hesitation in creating it by cutting off the head of the Chancellor.

In the meantime, he felt that his only chance of safety was passive obedience, — while he secretly hoped that there would be another revolution in the political wheel, and that Warwick might be precipitated from his present height of power. He accordingly took an

active part in those proceedings against Somerset, which terminated in his being dismissed from the Protectorship. He presided at the examinations of his former patron before the Council, — drew up the articles against him, — obtained his confession, — and brought in the bill of pains and penalties, by which he was deprived of all his offices, and sentenced to forfeit land to the value of 2000*l* a year.

We cannot but admire, although puzzled to explain, the mildness of this proceeding. According to all precedent, Somerset ought now to have been attainted of high treason, and could not hope to leave his cell in the Tower till he was led out to execution. Let us charitably suppose that Rich, finding that he could do so without endangering himself, put in a good word for the life of the man who had made him Lord Chancellor, — urging upon Warwick that Somerset, if pardoned, would thenceforth be powerless, and that the present head of the state might add to his own influence, both with the young King and with the nation, by an act of clemency rather than of vengeance. When Somerset was afterwards pardoned, and restored to the Privy Council, Rich must, from selfish motives at any rate, have been pleased with the prospect of some check hereafter arising to the unbounded sway which Warwick seemed otherwise destined permanently to enjoy.

While fresh political feuds were engendered, the Chancellor was for some time engaged in enforcing the new regulations respecting religious belief and religious worship. The council, under his presidency, took cognizance as well of those who departed too far from the ancient standard of orthodoxy, as of those who adhered to it too rigidly ; and a few Anabaptists and Arians were burnt, to show that the Reformers had a just abhorrence of heresy. But the chief difficulty was to deal with the numerous class of Roman Catholics, who had the Lady Mary, the heiress presumptive to the throne, at their head. A positive order was issued that the mass should not be celebrated ; and Dr. Mulet, her head chaplain, was committed to close custody in the Tower, because, under her sanction, he disobeyed this order. Mary demanded the enlargement of her chaplain ; the Chancellor wrote to her in the name of the Council, requiring her to obey the law. As she still remained intractable, the Chancellor, by order of the Council, paid her a visit at Copped Hall, in Essex, where she then resided, and delivered into her hand a letter from the King, peremptorily requiring her “to take a more earnest regard to the reformation of her family.”\* She received the King’s letter on her

\* See the letter at full length, 1 St. Tr. 549, with the King’s instructions to the Lord Chancellor and those who were to accompany him on this occasion. They were “to persuade her Grace that this proceeding cometh only of the conscience the King hath to avoid the offence of God, and of necessary counsel and wisdom to see his laws in so weighty causes executed.” But they were “in the King’s Majesty’s name most strictly to forbid the chaplains either to say or use any mass or kind of service other than by the law is authorised.” “Item, if ye shall find either any of the priests or any other person disobedient to this order, ye shall commit

knees as Rich delivered it — explaining, that the respect was paid to the writer, and not to its contents.

Rich declared the determination of the cabinet, that “she should no more use the private mass, nor do any other divine service than the law prescribed.” She told him, “she would obey the King in any thing that her conscience permitted, and would gladly suffer death to do him good, but preferred to lay her head on a block rather than use any service different from that established at her father’s death.” She added, “I am sickly : I would not willingly die, but will do the best I can to preserve my life ; but if I shall chance to die, you of the Council will be the cause of my death.”

She then took her ring from her finger, and, on her knees, gave it to the Chancellor to present to the King as a token of her regard and duty. As the Chancellor was waiting in the court-yard to depart, she accosted him from the window in a style not quite so dignified, but which rather gives us a favourable opinion of her frankness and good humour. “Send me back my comptroller,” said she, “whom you have taken from me because he obeyed my commands ; for since his departing I take the accounts myself of my own expenses, and have learned how many loaves be made of a bushel of wheat. But my father and mother never brought me up to baking and brewing ; and, to be plain with you, I am weary of mine office, and therefore, if my Lords will send mine officer home they shall do me pleasure ; otherwise, if they will send him to prison, I beshrew him if he go not to it merrily.” In spite of these remonstrances Rich did nothing to gratify her ; the comptroller and others of her servants were committed to the Tower, and continued in close confinement till a new Chancellor had been appointed, — when her solicitations, aided by the interference of the Emperor, procured their discharge, with the relaxation in her favour of being permitted to worship God according to her conscience, which, when upon the throne, she was too little inclined to grant to others.\*

Nearly a year of tranquillity was now enjoyed by Lord Rich, during which there was seeming harmony between Somerset [A. D. 1550.] and Warwick, — and even matrimonial alliances were contracted between their families ; — but a terrible crisis was at hand, which so much shook the nerves of the Chancellor that he renounced his office, and voluntarily fled into obscurity. Somerset [Dec. 1551.] had always been regarded with favour by the common people, whose part he took against the landed aristocracy in the disputes about inclosures and the clearing of estates ; his haughty carriage to the nobles was forgotten in the superior insolence of Warwick, who, being merely the son of an Attorney General, hanged for extortion, was regarded as an upstart, and the young King had recently

them forthwith to prison as ye shall think convenient.” Surely it is rather unreasonable to expect that Mary should afterwards herself act on the principles of toleration.

\* Strype, 457, 458. Ellis’s Letters, vol. ii. p. 179 — 182.

shown some distrust of his present minister, and a returning regard for his uncle.

Somerset resolved to avail himself of this favourable juncture to recover his office of Protector without being guilty of any disloyalty to his nephew, who, he doubted not, would sanction all that he projected when it was accomplished. He was urged on by his rival procuring himself to be created Duke of Northumberland, and manifesting a determination to tolerate no one at Court who, even by a look, expressed any dissatisfaction with its autocracy. Somerset, therefore, as a measure of self-preservation, engaged in a plot with a few associates to get possession of the person of the new Duke, to seize the Great Seal, to induce the King to throw himself into the arms of the uncle to whom he had been so much attached, and to issue a proclamation calling on all his faithful subjects to rally round him, and to take arms in his defence.

This scheme might very possibly have succeeded if it had been kept secret till the day when it was to be carried into execution, and Northumberland might have finished his career by the sentence of the law in the reign of Edward, instead of Mary ; but Sir Thomas Palmer, one of the confederates, revealed it to him, and Somerset was soon a close prisoner in the Tower, his execution being delayed only till the ceremony should have been gone through of a mock trial. There is a curious contrast between the history of France and of England, that assassination, so common in the one country, was hardly ever practised in the other ; but I know not whether our national character is much exalted by adherence to the system of perpetrating murder under the forms of law.

For some reason, not explained to us, it was thought more convenient to bring Somerset to trial before his Peers [Oct. 18, 1551.] and a Lord High Steward, than, according to the practice introduced by Lord Cromwell, and followed against himself, to call a parliament and proceed by bill of attainder, without hearing the accused in his defence. Perhaps alarm was taken at the sentiments of humanity and justice expressed by a very small minority of the Commons in the case of Lord Seymour.

Rich was now in a state of great consternation. Regularly, being Lord Chancellor, he ought to have been created Lord High Steward to preside at the trial ; but he was not free from suspicion of being himself implicated in the conspiracy, and there was no saying what disclosures might take place. He therefore feigned sickness : to give greater colour to the pretence, he issued a commission authorising the Master of the Rolls, and others, to hear causes for him in Chancery ; he obtained Northumberland's consent that another Lord High Steward should be appointed ; and he caused it to be privately intimated to Somerset that he absented himself from the trial out of tenderness to his ancient friend.

The Ex-chancellor Paulet, now created Marquess of Winchester,

was fixed upon as Lord High Steward, and the trial took place before him as I have related in his life.\*

To Rich's great relief, a conviction took place without his name being mentioned in the course of the proceedings, but a very difficult and delicate question arose as to the execution of the sentence. Being acquitted of high treason, though convicted of felony,—on leaving Westminster Hall the populace who were assembled in Palace Yard observed that the edge of the axe was not turned towards the prisoner, and concluded that there had been a general verdict of not guilty in his favour. They immediately raised a shout of exultation which was heard beyond the village of Charing, and risings were apprehended both in the city of London and in the provinces, if the idol of the people should be destroyed. It was likewise said that the King, who, notwithstanding his youth, now took a lively interest in the affairs of the state, wavered, and not only would not consent to sign the death-warrant of his uncle, but was disposed to take him again into favour.

Rich saw that whichever side prevailed, he himself, if he remained in office, must be exposed to the greatest peril, for, by his trimming policy, he had made himself odious to both.

“Having accumulated to himself a very fair fortune (like a discreet pilot, who, seeing a storm at hand, gets his ship into harbour), he made suit to the King, by reason of some bodily infirmities, that he might be discharged of his office.”†

He shut himself up in his town mansion, in Great St. Bartholomew's, and wrote to Northumberland that he was struck with a mortal disorder; that he was unable even to stir abroad as far as Whitehall or St. James's to deliver up the Great Seal in person to the King; and praying that messengers might be sent to him to receive it, so that he might now devote all his thoughts to preparations for a better world. Accordingly, on the 21st of December, 1551, the Duke of Northumberland himself, the Marquess of Winchester and others, authorised by letters of Privy Seal signed by the King, came to Lord Rich's house between eight and nine in the morning, and received from him the surrender of the Great Seal, which they forthwith carried and delivered to the King at Westminster.‡ We have no particulars of this interview, but we may fairly conjecture that the Chancellor appeared to be in a dying condition, and that, after well-acted regrets on both sides, it was speedily brought to a conclusion.

However this may be, we know that Rich, lightened from the anxieties of office, had a wonderful recovery, and lived sixteen years after his resignation. But so frightened was he by the perils he had

\* Ante, p. 36.

† Dugdale's Baronage.

‡ The Close Roll, after reciting the authority to Northumberland, &c., “*Magnum Sigillum Dni Regis apud Hospicium ejusdem Dni Riche in Greatte Saynte Bartilemewes in quadam interiori camera ibm intr. horas octavam et nonam ante meridiem ejusdem diei in quadam baga de corio inclusum et coopt. alia baga de velueto rubeo insigniis Regiis ornat. per decum Dnm Riche dcis nobilibus viris liberat. fuit.*”

gone through, that he never again would engage in public business. He spent the rest of his days in the country, in the management of his great estates and the accumulation of wealth,—preferring the pleasures of avarice to those of ambition. Instead of ending his career, as was once so probable, amidst countless thousands on Tower Hill,—after he had long sunk from public notice, he [A. D. 1560.] expired at a small country-house in Essex—the event, when known in London, hardly causing the slightest public sensation.

His two sons, both amply provided for, were created Earls of Warwick and of Holland,—but his descendants after making a distinguished figure for some generations are now extinct.\* They could not have looked with much pride on the character of the founder of their family, who, though he had pleasant manners, and was free from cant and hypocrisy, was, in reality, one of the most sordid, as well as most unprincipled, men who have ever held the office of Lord Chancellor in England.

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### CHAPTER XXXIX.

#### LIFE OF LORD CHANCELLOR GOODRICH.

THE Duke of Northumberland having the Great Seal so unexpectedly [Dec. 1551.] surrendered to him, was very much at a loss on whom he could place entire confidence; and he began to have aspiring projects, to which a lawyer with any remaining scruples must object. After a little deliberation he therefore resolved to recur to the old practice of putting an ecclesiastic at the head of the law,—taking care to select a man of decent character, who would not disgrace the appointment, and of moderate abilities, so as not to be dangerous to him. Such a man was THOMAS GOODRICH, Bishop of Ely, elevated because he was in no way distinguished—whose name would hardly have come down to us if at that time he had been less obscure.

On the 22d of December, 1551, the day after Lord Rich's resignation, the Great Seal was delivered by the King, in the presence of Northumberland and other grandees, to the Bishop, with the title of Lord Keeper.<sup>t</sup>

I do not find any account of his origin. His name is often spelt Goodrick; but from the following epigram upon him, indicating that

\* By one of them was erected Holland House, so famed as the residence of Addison when married to the dowager Countess of Warwick, and as the centre of intellectual and refined society under the family of Fox, who succeeded to it.

<sup>t</sup> Rot. Cl. 5 Ed. 6. p. 5.

he had emerged from poverty, it must have been pronounced Goodrich:—

“ *Et bonus et dives, bene junctus et optimus ordo;  
Præcedit bonitas; pone sequuntur opes.* ”

He was a pensioner of Benn'et College, Cambridge, and afterwards a fellow of Jesus College; and was said to have made considerable proficiency in the civil law as well as in Divinity. He took, however, only the degree of D.D. He early felt an inclination in favour of the reformed doctrines; which he openly avowed, when it was safe for him to do so, in the reign of Edward VI. He was accordingly employed to assist in revising the translation of the New Testament, and in compiling the Liturgy, and, as a reward for his services, was made Bishop of Ely. But he was a quiet, bookish man, not mixing with state affairs.

While he held the Great Seal he was a mere cypher in the Council; and his appointment was a contrivance of Northumberland to have the power and patronage of Lord Chancellor in his own hands. It was thought, however, that this object would be more effectually gained if Goodrich were treated with apparent respect; and on the 19th of January following he delivered up the Great Seal to the King, and received it back with the title of Lord Chancellor.\*

On the day before a commission had passed the Great Seal, authorising Beaumont, the Master of the Rolls, and others, to hear causes; and upon them devolved all the judicial business of the Court of Chancery while Goodrich was Chancellor.

The grand object now was to obtain the royal warrant for the execution of the illustrious convict lying under sentence of death in the Tower. Access to the King's presence was strictly denied to all who were suspected of being friendly to Somerset; and the new Chancellor, probably conscientiously, gave an opinion that he was guilty, and that the safety of the state required that the law should take its course. After a long delay, Edward was [JAN. 22, 1552.] induced to sign the fatal instrument, and the Protector was executed on Tower Hill, amidst wishes construed into prophecies that Northumberland might soon share his fate.

Parliament met a few weeks after, and a bill was introduced to confirm the attainder of the Duke of Somerset, and to set aside an entail of estates upon his family. It [APRIL, 1552.] easily passed the Lords, but it was thrown out by the Commons. Thereupon the Chancellor, in the name of the King and by command

\* This ceremony took place “ *apud Greneweeche in quodam interiori deambulatorio sive galerio ibidem inter horas secundam et terciam post meridiem.* ” The entry, without stating any swearing in or installation, thus concludes:— “ *Et superinde predicus Reverendus Pater Sigillum primum de manibus dci Dni Regis gratutent. accepiens illud extra bagam in qua repositum erat in presencia predica extrahi et quidam brevia ibidem sigillari mandavit deindeque in bagam præcum iterum reponi et sigillo suo prpro muniri fecit ac curam et custodiam ejusdam spr se assumpsit et illud penes se retinuit et retinet.* ”— 1. Rot. Cl. 5. Ed. 6.

of Northumberland, dissolved the parliament which had now lasted about five years.\*

In the beginning of the following year a new parliament was summoned, which Northumberland was determined should [A. D. 1553.] be more subservient, and for this purpose he caused the Chancellor to send, along with the writs, a letter, in the King's name, to each Sheriff, which, after setting forth the importance of having able and experienced representatives to serve in the House of Commons, concluded in these words : — “ Our pleasure is, that where our Privy Council, or any of them, shall recommend men of learning and wisdom, in such case their directions be regarded and followed, to have this assembly to be of the most chiefest men in our realm for advice and good counsel.”† This extraordinary breach of privilege passed without complaint.

On the 1st of March the parliament met in the palace of Whitehall, [A. D. 1553.] the King, on account of his declining health, not being able to go to the usual place of meeting in London or Westminster. The Lords spiritual and temporal being assembled in their robes, in the King's chapel, Ridley, Bishop of London, preached a sermon to them, and they received the communion. They then adjourned to the King's great chamber, which was fitted up as a House of Lords, “ the King sitting under his cloth of state, and the Lords in their degrees.” The Commons being called in, Lord Chancellor Goodrich made a speech in the King's name, which is said to have been “ brief on account of the King's sickness,” — and no part of it is preserved.

The object of the summons was chiefly to obtain a subsidy, and this being granted, and the Commons showing symptoms of discontent with the existing rule, the Lord Chancellor, at the end of a month, dissolved the Parliament, the King being present, and then seen the last time in public by his subjects.‡

This Sovereign, of so great promise, was now drawing to his untimely end, and Northumberland, wished to be at liberty, without the control of Parliament, to carry on his machinations for changing the succession, — well knowing that if the Lady Mary, who was next heir both by right of blood and by parliamentary settlement, should be placed on the throne, his power would be gone, and his personal safety would be compromised. Although a majority of the nation had become attached to the Reformation, there was no chance of a parliament being induced to disturb the succession. Mary could not, with any show of reason, be set aside in favour of Elizabeth ; a regard for hereditary right and respect for the memory of Henry VIII., who had always been a favourite with the common people, would have been strongly opposed to any attempt to set aside both. Northumberland himself was daily becoming more unpopular ; and the last House of Commons, which he had taken such pains to pack, had

\* 1 Parl. Hist. 590.

† Ibid. 591.

‡ 1 Parl. Hist. 602.

shown considerable hostility to him. He resorted, therefore, to another expedient.

A statute of the realm had conferred on Henry VIII. personally a power to dispose of the Crown by will,—and a will had accordingly been made by him, under this statute, by which he excluded the Scottish line, and called the issue of his younger sister to succeed after his own children. Edward had no such power, but Northumberland pretended that it belonged to him by the common law, and was in hopes that the nation would not nicely inquire into the distinction.

He had easily succeeded in inculcating this doctrine on the debilitated mind of the dying King, through the medium of the Chancellor and other creatures, whom he employed for that purpose. They represented to Edward that both his sisters having been declared illegitimate by parliament, and their legitimacy never having been restored—though they were nominally put into the succession, they could not constitutionally succeed;—that being of the half blood to him, according to a well-known rule of law, they were not his heirs;—that the succession of Mary would be the restoration of Popery;—that the Scottish line had already been justly set aside as aliens;—that the true heiress was the Marchioness of Dorset, daughter of Mary the Queen-dowager of France;—that, as she waived her rights, the next to succeed was her eldest daughter, the Lady Jane Grey, married to Northumberland's fourth son, a young lady of rare beauty and accomplishments, and a zealous Lutheran; and that to secure Edward's fame with posterity, and his salvation in another world, he should exercise the power which belonged to him, by securing that glorious reformation of religion which he had established.

The sick Prince was so far misled by this sophistry, that with his own hand he drew a sketch of a will settling the Crown, if he should die without issue, on "the Lady Jane and her heirs masles," and by direction of the Chancellor (who in the whole of this transaction was under an apprehension of the penalties of treason) he put his royal signature to this instrument above, below, and on each margin.

But to give validity to the settlement the Chancellor insisted that it must be approved of by the Council, and being reduced into due form, must pass under the Great Seal,—adding, that in a matter of such importance he could not act without the opinion of the Judges. On the 11th of June, 1553, Sir Edward Montague, Chief Justice of the Common Pleas, and two or three other Judges who were supposed to be most complying, together with the Attorney and Solicitor General, were summoned to Greenwich, where the Court then lay. They were immediately conducted by the Chancellor into the royal presence, and Edward made them a formal speech to the effect "that he had seriously weighed the dangers which threatened the laws and liberties and religion of the country if the Lady Mary should inherit the Crown and marry a foreign Prince; that, to prevent so great an evil, he had determined to change the order of the succession; and

that he had sent for them to draw up a legal instrument according to the instructions which he produced to them.

Being quite unprepared for such a proposal, they were thrown into the greatest perplexity. They expressed doubts to which the King listened with impatience; but they at last obtained a respite that they might peruse the various acts of succession which had been passed in the preceding reign, and consider the best mode of accomplishing the object which his Majesty for the good of his people had in view.

On deliberation they were more convinced of the entire illegality of the scheme, and of the personal peril in which they would themselves be involved by assisting in it. Accordingly, two days after, at a Council over which the Chancellor presided, and from the commencement of which Northumberland chose to be absent,—being asked for the instrument they had been ordered to prepare, they boldly answered that such an instrument would be a flat violation of the statute of the 35th of the late King, and would subject both those who should draw it and those who had advised it to be prosecuted for high treason. Northumberland, who had been within hearing in an adjoining room, finding that the persuasions of the Chancellor could make no impression upon them, and that his project was in danger of instantly blowing up, rushed into the Council Chamber with the most indecent violence, threatened to proceed against them as traitors, and declared that “he was ready to fight in his shirt with any man in so just a quarrel.”\* They still considered there was less peril in disobedience, and they departed expressing a resolute refusal.

Northumberland was not thus to be baulked. Gryffith, the Attorney General, was supposed to be the chief instigator of the opposition. He was therefore dismissed †, and the others were again summoned to Greenwich the following day. Edward, prompted by Northumberland, sternly asked them “why his command had not been obeyed?” The Chief Justice answered, that to obey would have been dangerous to them, and of no service to his Grace; that the succession having been settled by parliament, could only be altered by parliament; and that nothing could be done but to call a parliament and introduce a bill for that purpose. The King replied, that he intended to follow that course, but that in the mean time he wished to have the deed of settlement prepared which should be ratified in the parliament to be held in September. The Chancellor and the whole Council who were attending in a body joined in the request,—with a hint of their power to commit to the Tower for a breach of allegiance.

Montague at last agreed,—on condition that the Chancellor would make out a commission under the Great Seal to draw the instrument, and a full pardon under the Great Seal for having drawn it. This

\* This language would not appear so indecorous then as now, for instead of proposing a prize-fight according to the rules of the ring, it referred to judicial combats, which at that time occasionally took place before the Judges.

† He was rewarded for his fidelity by being re-appointed by Mary, while Mr. Solicitor was dismissed.

arrangement still was not satisfactory to Gosnald the Solicitor General, but means were found to bring him over the following day; and the Chancellor having made out the commission and the pardon in due form, the official instrument was engrossed on parchment, settling the Crown on the Lady Jane Grey.

The Chancellor himself now began to waver, and he refused to set the Great Seal to it unless it was signed not only by the King, but by all the Judges and all the members of the Council. The Judges all signed it except Sir James Hales, a Justice of the Common Pleas, who although a zealous Protestant, could not be prevailed upon by any solicitations or threats to derogate from the rights of the Princess Mary, the lawful heir to the Crown.\* The Councillors all readily except Cranmer, who at last had the weakness to yield (as he confessed) against his own conviction.† Goodrich then [JUNE 21.] affixed the Great Seal to the patent, and Northumberland, having got possession of it, confidently expected forthwith to reign under the name of his daughter-in-law.‡

Edward's strength henceforth declined so rapidly as to create a strong suspicion that poison assisted in hastening his end,—probably without foundation, for his feeble constitution had been undermined by consumption, which it had been for some time foreseen must, ere long, disappoint the hopes which the nation had entertained of the coming felicity of his reign. He expired on the 6th of July, but his death was kept secret for three days, while preparations [A. D. 1553.] were made for the accession of Queen Jane, and steps were taken to get the ladies Mary and Elizabeth into the power of Northumberland the usurper.

Goodrich was allowed to retain the Great Seal as Chancellor, without any fresh appointment, and he heartily concurred with Northumberland in all the steps which were taken to carry into effect the new settlement of the Crown. The Lord Mayor, six Aldermen, and twelve principal citizens of London were privately summoned before the Council, and he read to them the patent for changing the succession, explained its provisions, and enforced its validity. He then required them to take an oath of allegiance to the new Sovereign, and dismissed them with an injunction not to betray the secret, and to watch over the tranquillity of the city.

\* He had a very unsuitable return for his fidelity when Mary was upon the throne. — See *Life of Gardiner*, post.

† The Archbishop's signature appears the first, and then the Chancellor's; that of Cecil (afterwards the celebrated Burleigh) was the last, and it was so placed as to give him the pretext to which he resorted, that he signed only as a witness. — *Burnet*, vol. vi. pp. 275, 276.

‡ Upon his trial for high treason in Mary's reign, although he could not contend that Jane had been *so far sovereign de facto* as to entitle him to the benefit of the statute of Hen. VII., he tried to defend himself by this commission under the Great Seal, which he contended amounted to a pardon; but the Court held that it had no force, being contrary to an act of Parliament, and that it could not pardon future treason to be committed after the King's death. — See *Burnet*, xi. 243.

On the fourth morning the Chancellor rode with the other Lords of the Council to Sion House, to do homage to Queen Jane, who was herself still entirely ignorant of her cousin's death, and of her approaching elevation. The Duke of Northumberland having announced to her the astounding intelligence, the Chancellor and other Councillors all fell on their knees,—declared that they took her for their Sovereign, and swore that they were ready to shed their blood in support of her right. When she had recovered from the swoon into which she fell, they intimated to her that she must, according to the custom of English Sovereigns on their accession, repair to the Tower of London, there to remain till her coronation; and they accompanied her down the Thames in a grand state barge which had been prepared for her, all the great officers of the Court and the principal part of the nobility joining in the procession. In the evening a proclamation was published, superscribed by Jane as Queen, and countersigned by the Chancellor, setting forth her title; and she was proclaimed by the heralds without any opposition, but without any acclamations from the people.

A messenger arriving next day from Mary, as Queen, commanding the Council, on their allegiance, to give immediate orders for her proclamation, the Chancellor and twenty-one Councillors, Cranmer being of the number, sent an answer, directed to the "Lady Mary," requiring her to abandon her false claim, and to submit, as a dutiful subject, to her lawful and undoubted Sovereign. They likewise sent a mandate to the Lord Lieutenant of the county of Essex, where Mary was now mustering forces, which, after cautioning him against assisting the rebels, thus concluded; "Requiring your Lordship nevertheless, like a nobleman, to remain in that promise and steadiness to our Sovereign Lady Queen Jane's service as ye shall find us ready and firm with all our force to the same, which neither with honour, nor with safety, nor yet with duty, we may now forsake."\*

But intelligence was in a few days received at the Tower that the Duke of Northumberland, who had marched with an army to suppress the insurrection, was deserted by his troops, and that the nobility, the gentry, and the commons, satisfied with the declaration of Mary, that she did not mean to change the national religion, were flocking from all quarters to her standard, and joyfully acknowledging her as Queen.

The Chancellor and other Councillors, in great alarm, now left the Tower under the pretence of receiving the French Ambassador at Baynard's Castle, but, in reality, with the intention of sending in, as

\* The date is "Tower, July 19." The signatures are,—  
 " Cranmer. " Lord W. Paget.  
 " T. Ely, Chancellor. " Marq. Winchester,"  
 " The Earls of Suffolk. and nine Knights.  
 " Pembroke.  
 " Arundel.

speedily as possible, their adhesion to Queen Mary, in the hope of pardon. Having summoned the Lord Mayor and a deputation of Aldermen, the discussion was commenced by the Earl of Arundel, who declaimed against the ambition of Northumberland, and asserted the right, by birth and statute, of the two daughters of Henry VIII. The Earl of Pembroke then drew his sword, exclaiming, "If the arguments of my Lord of Arundel do not persuade you, this sword shall make Mary Queen, or I will die in her quarrel." He was answered with shouts of approbation.

Goodrich thereupon declining to act any longer as Chancellor, delivered up the Great Seal to the Lords Arundel and Paget, that they might carry it to Queen Mary to be disposed of as her Grace should deem proper.\* They immediately framed a recognition of Mary as their lawful Sovereign, which was signed by all present, including the Duke of Suffolk, who had joined them, and the whole body rode through the streets in procession, proclaiming Queen Mary at Paul's Cross, and all the principal stations of the city.

The Earl of Arundel and Lord Paget immediately afterwards set off for Framlingham, where Mary then was, and riding post all night, next morning delivered into her hands the Great [JULY 20, 1553.] Seal, *clavis regni*, and she was so pleased with the gift and the accompanying news that she immediately granted them forgiveness. At the same hour Jane, leaving the Tower, returned to Sion House after a nine-days' dream of empire.

By some historians she is reckoned among the Sovereigns of England. Goodrich most undoubtedly acted as her Lord Chancellor, although there was not time to make a new Great Seal with her style and insignia upon it.

He was beset with great terrors from the part he had ostensibly taken in concocting the patent to change the succession ; but, partly from his sacred character and partly from his real insignificance, he was not molested, and he was permitted to retire to his diocese. His zeal for the Reformation now so far cooled that he offered no opposition to the restoration of the old religion introduced by Mary, and he retained his bishopric till his death, which occurred on the 10th of May, 1554. In the lottery of life some high prizes are appropriated to mediocrity, and he was the holder of a fortunate ticket.

We ought here to take a retrospect of changes in the law, and of the administration of justice during the short reign of Edward VI. In the history of our religious establishment, it is the most memorable in our annals, for now indeed the Reformation was introduced, and it may be important to remember that this was done by the legislature, without any concurrence of convocations, and against the almost unanimous wish of the heads of the church.

The criminal law was improved by repealing a number of Henry VIII.'s fantastical treasons, and by enacting that in every prosecution

\* Rot. Cl. 1 Mary, p. 7.

for treason the overt act should be proved by two credible witnesses.\* At the commencement of the reign an act passed from which no very favourable inference can be drawn as to the morals, habits or accomplishments of the English nobility in the middle of the 16th century. House-breaking by day or night, highway robbery, horse stealing, and the felonious taking of goods from a church, having been made capital offences, it was provided, "that any Lord or Lords of the parliament (to include Archbishops and Bishops), and any Peer or Peers of the realm having place and voice in parliament, being convicted of any of the said offences for the first time, upon his or their request or prayer, *though he cannot read*, be allowed benefit of clergy and be discharged without any burning in the hand, loss of inheritance, or corruption of blood."† It seems strange to us that this privilege of peerage should have been desirable, or should have been conceded; but it continued in force till taken away by an act passed after the trial of Lord Cardigan in the reign of Queen Victoria.

Edward's Chancellors, without any statute for that purpose, took upon themselves, in many instances, the exercise of legislative power. Thus in April, 1549, Lord Chancellor Rich issued a proclamation under the Great Seal, addressed to all justices of the peace, enjoining them "to arrest all comers and tellers abroad of vain and forged tales and lies, and to commit them to the galleys, there to row in chains during the King's pleasure;" and by similar proclamations rates were fixed for the price of provisions; — penalties were imposed on such as should buy bad money under its nominal value, and the melting of the current coin was prohibited under pain of forfeiture.‡

The attainder of the Seymours shows that the ruling faction could still perpetrate any atrocity through parliamentary or judicial forms. Nevertheless, in this reign, able judges presided in Westminster Hall, and between party and party justice was equally administered. The prejudices against the equitable jurisdiction of the Court of Chancery subsided, and although hardly any of the decisions of the Chancellors are preserved, — till nearly the close of the reign, when there were heavy complaints of the inexperience of Goodrich, — they appear to have been satisfactory to the public.§

\* 1 Ed. 6. c. 12, 5 & 6 Ed. c. 11.  
† 2 Strype, 147. 149. 341. 491.

‡ 1 Ed. 6. c. 12. s. 10. 14.  
§ Dyer's Rep. Moore's Rep.

## CHAPTER XL.

**LIFE OF STEPHEN GARDYNER, LORD CHANCELLOR OF ENGLAND, FROM HIS BIRTH TO THE END OF THE REIGN OF HENRY VIII.**

WE pass from a Chancellor appointed on account of his insignificance, that he might be a tool in the hands of others, to a man of original genius, of powerful intellect, of independent mind,—at the same time unfortunately of narrow prejudices and a relentless heart,—who had a powerful influence upon the events of his [AUG. 23, 1533.] age, and left a distinguished name to posterity. Thomas Goodrich was succeeded by the celebrated **STEPHEN GARDYNER.**

The extraction of this extraordinary man has been matter of great controversy. The common statement is, that he was the natural son of Lionel Woodville, Bishop of Salisbury, brother of Elizabeth, the Queen of Edward IV.; while others insist that "he came of poor but honest parents." So much we know, that he was born at Bury St. Edmunds, in the year 1483, under the reign of Richard III.

No account has reached us of his schooling, and the first notice of his education represents him as a most diligent student at Trinity Hall, Cambridge. There he made great proficiency in classical learning, devoting himself to the school of the "Ciceronians," then in high fashion. At the same time he laid the foundation of his future advancement by the profound skill he acquired in the civil and canon law. In 1520 he was admitted a Doctor in both faculties, and soon after he was made Master of Trinity Hall. Having a son of the Duke of Norfolk's under his care, he acquired the friendship of that great noble, and was introduced by him to Wolsey, then in the plenitude of power as Chancellor to Henry VIII. The Cardinal was much pleased with the manners and accomplishments of the academic,—and, with his usual discernment, concluded that he might be made useful in the public service. Gardyner was very willing to change his career, for even with a view to advancement in the church there was then no such certain road for churchmen as secular employment.

He began with being the Cardinal's private Secretary, and showed dexterity in managing the public correspondence and the private affairs of his patron. We may judge of the confidence reposed in him from the terms in which he is spoken of by Wolsey, who calls him "primarium secretissimorum consiliorum secretarium, mei dimidium, et quo neminem habeo cariorem."\* The treaty of alliance with

\* Burnet, Ref. No. VIII.

Francis I. in 1525 being projected, Gardyner was employed to draw up the *projet*, and the King coming to his house at Moor Park, in Hertfordshire, found him busy at this work. Henry looked at it, liked the performance well, the Secretary's conversation still better, and his fertility in the invention of expedients best of all. From this time [A.D. 1522.] Gardyner was consulted about the most secret affairs of State. Soon after he was made Chaplain to the King, and speedily Almoner, when he was admitted to Henry's closest familiarity and intimacy.

The question of the divorce from Catherine of Aragon coming up, [A.D. 1525.] Gardyner's consequence was much enhanced from his great reputation as a jurist and canonist. Misled by his ambition, and eager to conform to the King's humours, he now, and for several years afterwards, took a part of which he deeply repented when he became the great supporter of Papal power in England, and the Chancellor and Prime Minister of the daughter of Catherine. He not only gave a strong opinion as to the invalidity of Henry's first marriage, but he devoted the whole of his energies to the object of obtaining the formal dissolution of it. Having assisted in preparing questions upon the subject for the Universities at home and [A.D. 1528.] abroad, and in procuring favourable answers, he was himself sent as ambassador to the Court of Rome for the purpose of furthering the divorce. As a bribe to Clement VII., he was to procure from the Venetians the restoration to the Roman See of Ravenna and Servia, and then to extort from the gratitude or timidity of the Pope the bull and dispensation which would enable Henry to get rid of the wife of whom he was tired, and to marry her of whom he was then so deeply enamoured. No better proof can be given of his high favour with Henry than that, in this embassy, he wrote him private letters not to be seen by Wolsey, whose good faith in the negotiation began to be suspected. He failed in the object of his mission, but he managed well while at Rome in advancing his own fortunes; for by rendering a service to the Bishop of Norwich, he was made Archdeacon of Norfolk; by intriguing for Wolsey's promotion to the papedom, he recommended himself more than ever to his patron,\* and by the zeal and dexterity with which he conducted the secret correspondence in which he was engaged, he entirely won the heart of Henry.

As the divorce suit was now to be tried in England before a court consisting of Cardinal Campeggio, sent over as legate for that purpose, and Cardinal Wolsey associated with him, the King immediately retained Dr. Gardyner as his counsel, and desired him to hurry home to prepare for the trial. The keen advocate, on his arrival, was indefatigable in getting up the proofs of the consummation of Cathe-

\* While Gardyner was at Rome Clement was dangerously ill, and he so won over the cardinals, that if a vacancy had occurred it is believed that Wolsey must have succeeded. When his masterly dispositions were related, Wolsey, thinking the triple crown already on his head, exclaimed, "O inestimable treasure and jewel of this realm!"

rine's marriage with Prince Arthur, and the other facts relied upon to show the nullity of the dispensation of Pope Julius, under which that marriage was solemnised. After long delays the [JULY, 1529.] suit was brought to a hearing, and Gardyner pleaded for his royal client with great learning and ability. But when a favourable judgment was expected, the cause was evoked to Rome to be decided by the Pope in person, assisted by the conclave. This step led to the fall of Wolsey. Of Gardyner's sincerity no doubts were entertained ; and it was thought that he would then have been appointed to succeed as Chancellor, had it not been that, from the arrogance of the great Cardinal, and the manner in which, from his ecclesiastical character, it was supposed he had been able to thwart the King's inclinations, a fixed resolution had been formed that the Great Seal should not again be intrusted to a churchman.\*

But although Sir Thomas More was preferred as Chancellor, he generally confined himself to the discharge of his judicial duties ; and Gardyner, now Secretary of State, was [Oct. 1529.] the chief adviser of the measures of the government. In 1531 he was appointed to the see of Winchester ; and hitherto Cranmer and he, who afterwards took such different courses, and proved such mortal enemies, concurred in throwing off allegiance to Rome. While Sir Thomas More sacrificed first his office, and then his life, to his consistency, Gardyner, more flexible, not only acknowledged the King's supremacy, but wrote a book in defence of it, entitled, "De *vera et falsa Obedientia*." He was always a determined enemy of the general Lutheran doctrines ; but for a while he made his creed so far coincide with his interest, as to believe that the Anglican Church, rigidly maintaining all its ancient doctrines, might be severed from the spiritual dominion of the Pope, and flourish under a layman as its head. At this time, so completely was he on the Anti-papal faction, that he actually sat on the bench with Cranmer, and joined in the sentence when the marriage between Henry and Catherine was adjudged null and void.

However, he joined himself with the Duke of Norfolk and the party opposed to any farther innovation in religion, and was ever on the watch to counteract the efforts of Cranmer, supposed to be abetted by Lord Chancellor Audley, to extend the Reformation. It was whispered, that he had obtained absolution from the Pope for his past backsliding on the question of the supremacy, with a dispensation to yield silent obedience to this law while it existed, — on condition of his strenuous resistance to the new opinions, and his promise to take the earliest opportunity of bringing England back to full communion with the true Church.

Being sent on an embassy to Germany, he took occasion, on his

\* So pleased was Anne Boleyn with his zeal, that she was in private correspondence with him, and thus addressed him : "I thank you for my letter, wherein I perceive the willing and faithful mind you have to do me pleasure." — *Letter in State Paper Office.*

return, to detail to the King the excesses of the Anabaptists, and to point out to him the importance of preserving uniformity of faith for the safety of the state. He likewise urged upon him, that it was impolitic farther to offend the Pope, by reason of the power of the Holy See itself, and because the Emperor, and other orthodox Princes, would break off all commerce with him if he went to extremities against the Roman Catholic religion. These representations produced "the bloody act of the Six Articles," and the deaths of the numerous *sacramentaries*, who suffered under it, for denying the real presence.

But what he chiefly watched was the manner in which the situation of Queen-consort was filled, — judging that upon this depended a good deal what should be the national religion. Although he had contributed to the elevation of Anne Boleyn, he rejoiced in her fall, and was supposed to have hastened it.\*

Death delivered him from the apprehensions he entertained of the ascendency of Jane Seymour. Then began a mortal [A. D. 1537.] struggle between him and Cromwell for supplying the vacancy thus occasioned. The Vicar-General had a temporary triumph [A. D. 1539.] from the flattering portrait, by Holbein, of the Protestant Anne of Cleves; but Anne herself arrived; Henry was disgusted with her, and he was enraged against the man who [A. D. 1540.] had imposed her upon him. In a few months Anne was divorced, and Cromwell was beheaded.

Nothing could exceed the exultation of Gardyner at this catastrophe, for Cromwell, who was the author of the dissolution of the monasteries, and himself deeply tainted with the new doctrines, had entered into secret engagements with the Protestant Princes of Germany, and was supposed to have a plan, in conjunction with some of the nobility, to make still further inroads on the property of the Church.

There was much anxiety till it was seen what choice the King [Aug. 1540.] would make, but Gardyner considered the true faith for ever established when he had placed upon the throne the young and beautiful Catherine Howard, the niece of the Duke of Norfolk, and herself a rigid Roman Catholic.

For a year he went on contentedly, and had the satisfaction of alarming Cranmer so much, that the Archbishop, in great consternation, sent back his German wife to her own country, lest he should be subjected to the severe penalties enacted to enforce the celibacy of the clergy. But a cruel mortification awaited Gardyner in the discovery of the profligate character of the new Catholic [A. D. 1541.] Queen. He at first resisted the proofs of her guilt, and contended that they were fabricated by Cranmer.

After her execution, his great desire was to assist in elevating to the throne a lady not only of pure morals but of pure orthodoxy, who

\* "Gardyner. — It will ne'er be well  
Till Cranmer, Cromwell, her two hands, and she  
Sleep in their graves." — *Shaks. Hen. VIII.*

should at once be faithful to the King and to the Pope. After the act passed making it high treason for any woman who was not a true maid to marry the King without disclosing her shame, there was, as we have seen, a great shyness among all the young ladies of the Court when his Majesty seemed to make any advance to them; but Gardyner still hoped for an alliance with some sovereign family on the Continent that was leagued against the new heresy.

What must have been his astonishment and consternation when, in the morning of the 12th of July, 1543, being in attendance on the King at Hampton Court, he was ordered forthwith to celebrate a marriage between his Majesty and the Lady Catherine Parr, the widow of Lord Latimer, and well known to be a decided Lutheran, although, from the discretion which always marked her conduct, she had taken care not to give offence to those of opposite opinions. Of the mature age of thirty-five, she was by no means without personal attractions; but no one had ever dreamed of Henry putting up with a widow after his many declarations, both to parliament and in private society, that he could have nothing to say to any woman who he could not be sure, from his superior science, was an untouched virgin.

When Gardyner had recovered his speech, he made an objection, that the forms of the Church must be observed even by crowned heads; and that the proposed marriage, at that moment, would be irregular and uncanonical. But his astonishment and mortification were redoubled when the King, saying he had foreseen that difficulty, produced to him a license from Archbishop Cranmer, dispensing with the publication of banns, and allowing the ceremony to take place at any hour and in any place, "for the honour and weal of the realm." The wily prelate perceived that he had been completely outwitted, and that, as a piece of wicked pleasantry, it was intended to make him the instrument of bringing about a matrimonial union, which it was known would be so distasteful to him. But he could no longer resist the King's commands; and being led into a small private chapel in the Palace, there he found the Lady Catherine and all requisite preparations for the ceremony,—through which, Henry having gone for the sixth time, in a few minutes the widow Latimer was Queen of England.\*

Gardyner, who had always a great command of himself, behaved with decency; but he felt that he had been insulted, and secretly vowing revenge, he resolved to "bide his time."

He took every opportunity of instilling suspicion into the King's mind respecting Cranmer's principles and purposes; [A. D. 1554.] and at last Henry gave consent that the Archbishop should be examined before the Council, and that they should take such steps respecting him as the safety of the state might require. But it had been intended from the beginning to play off another trick

\* Chron. Catal. 238.

upon Gardyner ; or the King, upon farther consideration, resolved to disappoint and to mortify him ; for his Majesty gave Cranmer a ring, to be shown, in case of necessity, as a proof that he was still in full favour.

It was supposed that the Archbishop was at last to share the fate of Fisher, More and Cromwell. Being summoned as a criminal before the Council, — after he had been kept waiting for some hours at the door among the populace, he was called in and underwent a strict interrogatory respecting his opinions. Gardyner then said in a stern tone : “ My Lord of Canterbury, you must stand committed to the Tower.” The Archbishop showed the royal signet ; and the King himself suddenly coming in, sharply reprimanded Gardyner and Chancellor Wriothesley for their harsh conduct to a man to whom he owed such obligations, and whom he was determined to protect.\*

In the following year, Gardyner thought that the hour of vengeance had at last arrived. The King, of his own accord, [A. D. 1546.] complained to him of the Queen, — representing “ that he had discovered, to his great concern, that she entertained most suspicious opinions concerning the real presence, and other points comprised in the Six Articles ; and that, forgetting the modesty of her sex, and the subjection of the wife to the husband (to say nothing of what was due to himself as Sovereign and Defender of the Faith), she had actually been arguing with him on these essential heads of theology, and had been trying to undermine his orthodoxy, and to make him a convert to the damnable doctrines of Luther, which, in his youth, he had refuted with so much glory.” Gardyner eagerly laid hold of the opportunity to inflame the quarrel ; and strongly inculcated upon the King his duty to forget every private consideration, and to set a bright example of piety and Christian courage by prosecuting the sharer of his bed and throne for thus violating the law of God and a statute of the realm. The King, exasperated by these exhortations, agreed that the matter should be mentioned to Wriothesley ; and (as we have seen in the life of that Chancellor), had it not been for the accident of the articles of impeachment being clandestinely read, and secretly communicated to the Queen before they were acted upon, — so as to give her an opportunity for a dexterous explanation which soothed the King’s wrath, — she would cer-

\* Shakspeare gives a very lively and just representation of this scene in the fifth Act of Hen. VIII., — only that, by his usual pardonable disregard of dates, he supposes it to have happened in the lifetime of Anne Boleyn, at least twelve years sooner. Gardyner’s speech is very characteristic : —

“ My Lord, because we have business of more moment,  
We will be short with you. ‘Tis his Highness’ pleasure  
And our consent, for better trial of you,  
From hence you be committed to the Tower ;  
Where being but a private man again,  
You shall know many dare accuse you boldly,  
More than I fear you are provided for.”

“ Receive him  
And see him safe i’ the Tower.” — *Hen. VIII.*, act v. sc. 2.

tainly have been sent to the Tower,—and, probably, ending her career on Tower Hill, Henry would have made a seventh attempt to have a wife both chaste and orthodox.\*

During the rest of this reign Gardyner was out of favour at Court, and obliged to confine himself to the discharge of what he considered his duties as a prelate. In this capacity he took an active part in the persecution of Anne Ascue, Nicholas Boleman, John Lassels, and others, who were burnt for denying the real presence;—while he could not save an equal number of stanch Papists who suffered at the instance of the opposite party for denying the King's supremacy. But his chief object was to check the translation of the Bible, and its circulation among the laity, which he considered the grand source of heresy and insubordination to just spiritual authority. Having tried ineffectually to render the translation unintelligible, by retaining a large mixture of Latin words from the Vulgate, for which he contended there were no equivalent terms in the English tongue,† he succeeded in introducing a clause into an act of parliament upon the subject, confining the use of the translation to gentlemen and merchants, with a preamble, “that many seditious and ignorant persons had abused the liberty granted them of reading the Bible, and that great animosities, tumults, and schisms, had been occasioned by perverting the sense of the Scriptures.”‡

He still made ineffectual attempts to recover the King's favour. Having prevailed on the Convocation to grant rather a liberal subsidy, he hurried with the news to Windsor. [A. D. 1554.] The King, taking horse on the terrace to ride out a hawking, saw Gardyner standing in a group with Lord Chancellor Wriothesley and other Councillors, and calling out to the Lord Chancellor said, “Did not I command you he should come no more amongst you?” The Lord Chancellor answered, “And it please your Grace his coming is to bring word of a benevolence given to your Majesty by the clergy.” The King exclaimed, “Ah! let him come hither;” “and so,” observes the narrator of this scene, of which he was an eye-witness, “he did his message, and the King went straight away.”§ Being anxious to keep up a belief with the multitude that he still enjoyed the King's confidence, it is related that Henry, lying ill in bed, and having summoned a Council, Gardyner attended, but was not admitted into the royal presence. “Thereupon he remained in the utter Privy Chamber until the Council came from the King, and then went down with them,—to the end, as was thought, to blind the world withal.”||

\* Ante, Vol. I. Chap. XXXV. Some historians think that in this affair Henry was again mystifying Gardyner. I have no doubt that, in the present instance, he was serious and sincere.

† Among these were *ecclesia, paenitentia, pontifex, contritus, holocausta, sacramentum, clementia, ceremonia, mysterium, presbyter, sacrificium, humilitas, satisfactionis, peccatum, gratia, hostia, charitas*. — Burnet, vol. I. p. 315.

‡ 33 Hen. 8. c. 1.

§ Sir Anthony Lenny. See Fox, Mart. 1 St Tr. 560.

|| Ibid.

The prosecution of the Duke of Norfolk and the Earl of Surrey, at the close of the reign, still further weakened the Catholic party ; but a great struggle was made by them to have Gardyner included in the list of Henry's Executors, to whom the government was to be intrusted during the minority of his son. Sir Anthony Brown, "a principal pillar of the Romanists," having at all times access to the King, as being of the Privy Chamber, knelt down, he lying sick in bed, and said, "My Lord of Winchester, I think by negligence, is left out of your Majesty's will, who hath done your Highness most painful, long, and notable service, and one without whom the rest shall not be able to overcome your great and weighty affairs committed unto them." "Hold your peace," quoth the King, "I remembered him well enough, and of good purpose have left him out. For surely, if he were in my testament, and one of you, he would cumber you all, and you should never rule him, he is of so troublesome a nature. I myself could use him and rule him to all manner of purposes as seemed good unto me, but so shall you never do, and therefore talk no more of him to me in this behalf." Sir Anthony was urged on again to press the point, as every thing was felt to depend upon it ; but Henry, well prepared by the Seymours and Catherine Par, who had got complete possession of him, put an end to all farther attempts, by exclaiming, "Have you not yet done to molest me in this manner ? If you will not cease to trouble me, by the faith I owe unto God I will surely despatch thee out of my will also, and therefore let us hear no more of it."\*

On the accession of the new Sovereign, Gardyner, though excluded from the Council, set himself openly and fearlessly [JAN. 1547.] to oppose the measures brought forward under the Protector, to change the established religion ;—and there can be no doubt that he had the law on his side. Before a parliament was called, the Council, disregarding the act of the Six Articles which was still in force, issued orders for changing the ceremonial of Divine worship,—published a book of homilies to be read by all priests, inculcating the new doctrines,—and appointed ministers to go into every diocese to see that the new regulations were observed. Gardyner expressed his firm resolve that if the visitors came into his diocese he should proceed against them, that they might be restrained and punished. He made representations on the subject to the Protector, and tried to show both the illegality and the inexpediency of these proceedings. "'Tis a dangerous thing," said he, "to use too much freedom in researches of this kind. If you cut the old canal, the water is apt to run further than you have a mind to. If you indulge the humours of novelty, you cannot put a stop to people's demands, nor govern their indiscretions at pleasure. To speak my mind and to act as my conscience directs, are two branches of liberty which I can never part with."

He forcibly urged that Edward was too young and that the Pro-

tector was too much occupied to study subjects of controversy ; that it was imprudent to run such a risk of disturbing the public peace during a minority ; that injunctions issued in the King's name could not invalidate acts of parliament ; and that as Cardinal Wolsey had incurred a premunire though he acted under royal license, so all clergymen who taught the doctrines in the homilies would be liable to the penalties enacted by the statute of the Six Articles,—which he himself was determined to enforce for the honour of God and the good of the Church.\* He likewise wrote in a contemptuous tone to Cranmer, defying him to prove the truth of certain doctrines inculcated in the book of homilies, and reproaching him with duplicity in now reprobating the opinions which he had appeared zealously to countenance during the life of the late King.

Gardyner was in consequence summoned before the Council, and required to promise obedience to the royal injunctions. He appealed to the approaching parliament. The Protector's party became afraid of the resistance which, as a member of the House of Peers, he might offer to their measures, and they were still more alarmed at the flame he was beginning to kindle out of doors by addressing himself to the religious feelings of the people. Therefore, though he could not be charged with any offence against the law, he was in the most arbitrary manner forthwith committed to the Fleet, and detained a close prisoner till the end of the session.

Attempts were in vain made during his confinement to gain him over to the new plan of reform. On one occasion, Cranmer, finding he could make no impression upon him, exclaimed testily, "Brother of Winchester, you like not anything new unless you be yourself the author thereof." "Your Grace wrongeth me," replied the true conservative ; "I have never been author yet of any one new thing, for which I thank my God."

An intriguing subordinate was afterwards sent to him to hint that, if he would soften his opposition, he might have a place in the Council, and be restored to his see. But he answered indignantly, "that his character and conscience forbade it ; and that if he agreed on such terms, he should deserve to be whipped in every market town in the realm, and then to be hanged for an example, as the veriest varlet that ever was bishop in any realm christened."†

At the end of the session which had been so much smoothed by his absence he was set at liberty, and ordered by the [JUNE, 1549.] Council to preach at Paul's Cross before the King on the feast of St. Peter,—with an injunction that he should not touch on any controverted question. He declared to a friend that this was perhaps the only opportunity the young Prince might have of hearing the truth, and that he was determined, whatever might be the consequence, to explain to him the true Catholic doctrine with respect to the

\* Strype. See the correspondence at full length, 1 St. Tr. 551.

† Ibid.

mass and the eucharist. He kept his word ; but the next day he was committed to the Tower.

During his absence from parliament the statute of the Six Articles was repealed, and bills were passed allowing the clergy to marry ;— for the administration of the Sacrament of the Lord's supper to the laity in both kinds ;— for uniformity of worship,— and for the use of the new Liturgy.\* Still certain bishops, animated by Gardyner's example, refused to conform ; and after he had been confined for two [JULY, 1550.] or three years, a resolution was taken to deprive him and them of their bishoprics, so that the reformed Church might be complete.

The method of proceeding against him was violent, and was hardly disguised by any colour of law or justice. A deputation from the Council were sent to tempt him with questions. Finding him more compliant than they expected, they rose in their demands ; and at last insisted on unconditional submission, and an acknowledgment of past errors. Perceiving that it was their purpose either to dishonour or to ruin him, or perhaps both, he determined not to gratify them by any further compliance. He therefore refused to answer any questions till he should recover his liberty ; but he asserted his innocence, and desired a fair trial. In a few days he was brought before the Council, when certain articles were read, and, in the King's name, he was required to subscribe them. He replied that "in all things his Majesty could lawfully command he was most ready to obey ; but forasmuch as there were divers things required of him that his conscience would not bear, therefore he prayed them to have him excused." Immediate sequestration of his ecclesiastical revenue was pronounced, with an intimation that, if he did not submit within three months, he should be deprived of his bishopric.

At the end of that time a commission was issued to the Metropolitan, three Bishops and six laymen, to bring him judicially to trial. Having protested against the validity of the commission, which was not founded on any statute or precedent, he defended himself with vigour ; but Cræmer, on the twenty-second day of the proceedings, before the close of the defendant's proofs, which occasioned some disagreeable disclosures,— on the ground that he was contumacious, pronounced sentence against him that he should be deprived of his bishopric. He appealed to the King ; but his appeal was not regarded, and he was now shut up in a meaner cell in the Tower,— with instructions from the Council that no man should see him but one of the warders ; that all his books and papers should be taken from him ; and that he should be refused the use of pen, ink, and paper. There he lay, in solitary confinement, without any mitigation of his sufferings, till the accession of Queen Mary, when he was made Lord Chancellor and Prime Minister to that Sovereign.

Such was the seclusion in which Gardyner had been kept that he

\* Stat. 1 Ed. 6.

had not heard of the death of Edward VI., of the proclamation of Lady Jane Grey as Queen, or the manner in which the nation had taken up the cause of the rightful heir to the Crown,—when, on the morning of the 31st of July, 1553, he was told of those events,—with the additional news that Queen Mary, accompanied by her sister Elizabeth, was actually making a triumphal procession through the streets of London, on her way to the Tower.

It happened that in this fortress there were confined four other state prisoners, who had never been allowed to communicate with each other, and had been subjected to equal rigour,—the old Duke of Norfolk, attainted in the last days of Henry VIII., and saved from the block by the opportune death of that tyrant,—the Duchess of Somerset, who had been committed at the same time, with her husband, as an accomplice in his treasons,—Courtenay, son of the Marquis of Exeter, who, without being charged with any crime, had been shut up ever since his father's execution, in the year 1538,—and Tunstal, Bishop of Durham, who, imitating the firmness of Gardyner, had likewise been deprived and sentenced to close imprisonment. As the procession approached amidst the deafening acclamations of the people, these five illustrious captives were liberated; and having immediately met and appointed Gardyner to deliver an address of congratulation to the new Queen in their names, they all knelt down on the green inside of the great gate leading from Tower Hill. As she entered, Gardyner, still on his knees, pronounced his address in terms and in a tone the most affecting. Mary burst into tears, called them *her* prisoners, bade them arise, and, having kissed them, restored them to complete liberty.

If Gardyner's fall from power had been precipitate, much more sudden and striking was his re-instatement. He was the Queen's chief favourite and adviser from their first interview, and, taken from a dungeon, he was invested with the supreme power of the state. We have seen, in the life of Lord Chancellor Goodrich, that the Great Seal, which he renounced on the dethronement of Queen Jane, was carried by the Lords Arundel and Paget to the Queen at Framlingham.\* She brought it with her to London, as an emblem of her sovereignty, and she immediately delivered it to Gardyner, as Lord Keeper, till he might be more regularly installed; at the same time swearing him of her Privy Council. At the end of three [Aug. 23, 1553.] weeks she constituted him Lord Chancellor, with an intimation that he should use the Great Seal which bore the name and style of her deceased brother till another, bearing her own name and style, should be made. It is curious to observe, that she herself assumed the title of "Supreme Head of the Church."†

\* *Ante*, p. 59.

† "Memd. qd die Mercurii videlt vici emo tertio die Augusti anno regni Dne Marie Dei Gra. Angl. Franc. et Hiber. Regine Fidei Defensoris et in Terra Ecclie Anglicane et Hibernie supremi capitit primo circa horam quintam post meridiem ejusdem diei Magnum Sigillum ipsius Domne Regine quondamque sigillum excellentissimi Principis Edwardi Sexti nuper Regis Anglie Angl. defunct. fris pce Dne

## CHAPTER XLI.

LIFE OF LORD CHANCELLOR GARDYNER, FROM THE ACCESSION OF  
QUEEN MARY.

It must be admitted that the earliest measures of Mary's reign, [JULY 6, 1553.] prompted by Gardyner, were highly praiseworthy. The depreciated currency was restored; a new coinage came out of sovereigns and half-sovereigns, according to the old standard; the subsidy extorted from the late parliament was remitted; and, to discountenance puritanical severity, the festivities which distinguished the Court in the time of Henry VIII. were restored. No complaint could as yet be made of undue severity in punishing the late movement in favour of Queen Jane; for though she and her youthful husband, and various others, were convicted of treason, Northumberland only and two of his associates were actually executed.

The privilege of crowning the Sovereigns of England, we have seen, belongs to the Archbishops of Canterbury; but Mary would have considered it an insult to her mother's memory, and little less than sacrilege, to have permitted Cranmer to perform this rite, and he was in no situation to assert the claim of his see, as he was at present liable to be prosecuted as a traitor for signing the settlement to disturb Mary's succession, and for having actually supported the title of Queen Jane. The honour of anointing the Queen and placing the crown upon her head was conferred on Lord Chancellor Gardyner, who had been restored to his see of Winchester.

To please the people, he took care that the ceremony should be [SEPT. 30, 1553.] performed with great magnificence, ancient precedent being strictly adhered to in the religious part of it; and the banquet in Westminster Hall gave high satisfaction to all who partook of it, whether Romanists or Reformers. Gardyner deserved still more praise for publishing, the same evening, a general pardon under the Great Seal (with a few exceptions) to all concerned in treasonable or seditious practices since the Queen's accession.

Hopes were entertained that his elevation to power had mitigated the sternness of his character, and that moderate and humane councils would continue to distinguish the new reign. These hopes, probably, would not have been disappointed, had not the Chancellor formed a

Regine percharissimi apud Richemount in sua privata era ibidem sigillum illud in quadam baga, &c. Reverendo in Xro Pri Sta Stepho Winton Epo deliberavit ad sigillandum et excendum ut Magnum Sigillum ipsius Dne Regine quounque aliud Magnum Sigillum cum nome et titulo Regine insculptum fabricari et de novo fieri possit," &c. — Rot. Cl. 1 Mar.

strong opinion that it was essentially necessary for the safety of the state that the new doctrines should be utterly suppressed, and that church government should be restored to the same condition in which it was before the rupture with Rome. He was no enthusiast ; he was not naturally cruel ; he was not bigoted in his creed, having several times shown that he could make profession of doctrine bend to political expediency. But even in the reign of Henry VIII. he had come to the conclusion that the privilege of free inquiry in religion was incompatible with the peace of society, and that the only safe policy was to enforce the established standard of faith. His own sufferings during the reign of Edward VI. had, no doubt, strengthened these views, and he was now prepared resolutely to carry through the most rigorous measures, any temporary display of liberality being intended only to facilitate the attainment of his object. He resolved, at the same time, to proceed with caution, and to wait till he had brought about a reconciliation with Rome and the restitution of the Catholic religion by authority of parliament, before resorting to the axe and the stake as instruments of conversion.

Meanwhile he himself and the other Bishops deprived during the last reign being restored, the heretical Archbishop of York and the Bishops of London, Exeter, and Gloucester were sent to prison, whither Cranmer and Latimer soon followed them. It should be recorded, however, that when some zealous Catholics urged the imprisonment of the celebrated foreign reformer, Peter Martyr, Gardyner, to his honour, pleaded that he had come over by an invitation from a former government, and furnished him with supplies to return to his own country in safety.

Parliament meeting on the 5th of October, the Chancellor, after celebrating a solemn mass of the Holy Ghost according [A. D. 1553.] to the ancient ritual, delivered, in presence of the Queen and the two Houses, an eloquent oration, in which he celebrated the piety, clemency, and other virtues of the reigning Sovereign, and called upon the legislature to pass the laws which were required, after the late dissensions and disturbances, for the good of the Church and the safety of the realm.

The first act which he proposed was most laudable, as it swept away all the newly created treasons, although it was considered by some an insidious attempt to restore the authority of the Pope. He had little difficulty in changing the national religion as to doctrine and worship ; but there was a great alarm at the thought of restoring Papal supremacy, as this might draw along with it a restoration of the church lands, with which the nobles and gentry had been enriched.

In the Lords, there was no show of opposition to any proposed measure ; but, notwithstanding great pains taken by Gardyner to manage the elections, there were symptoms of discontent exhibited in the House of Commons, which rendered it prudent that several bills brought in should be postponed.

The most strenuous opponent of the Catholic counter-revolution was

that same Sir James Hales, the Judge of the Common Pleas, who, at the close of the reign of Edward VI., had risked his life by refusing to join in the illegal scheme for setting Mary aside from the succession to the Crown.

In vacation time he resided in Kent, where he acted as a magistrate ; and presiding as chairman at the Michaelmas [A. D. 1553.] Quarter Sessions, held for that county, he gave charge to the grand Jury to inquire of all offences touching the Queen's supremacy and religious worship, against the statutes, made in the time of Henry VIII. and Edward VI., which he told them remained in full force, and parliament alone could repeal. In consequence, an indictment being found for the unlawful celebration of mass, contrary to the form of the statute in such case made and provided, Hales tried, convicted, and sentenced the defendant as the law required.

On the first day of the following term, the Judges were to be sworn in before the Chancellor in Westminster Hall, under their appointment by the new Sovereign ; and Hales having, with the rest, presented himself to his Lordship, the following dialogue took place between them, highly characteristic of the individuals and of the age.

*Lord Chancellor.* — “Master Hales, ye shall understand, that like as the Queen's Highness hath heretofore conceived good opinion of you, especially for that ye stood both faithfully and lawfully in her cause of just succession, refusing to set your hand to the book, among others that were against her Grace in that behalf ; so now, through your own late deserts against certain her Highness's doings, ye stand not well in her Grace's favour, and, therefore, before ye take any oath, it shall be necessary for you to make your purgation.”

*Hales J.* — “I pray you, my Lord, what is the cause?”

*Lord Chancellor.* — “Information is given that ye have indicted certain priests in Kent for saying mass.”

*Hales J.* — “My Lord, it is not so ; I indicted none : but, indeed, certain indictments of like matter were brought before me at the last sessions there holden, and I gave order there as the law required. So I have professed the law, against which, in cases of justice, I will never, God willing, proceed, nor in any wise dissemble, but with the same show forth my conscience ; and if it were to do again, I would do no less than I did.”

*Lord Chancellor.* — “Yea, Master Hales, your conscience is known well enough ; I no you lack no conscience.”

*Hales, J.* — “My Lord, you may do well to search your own conscience, for mine is better known to myself than to you ; and to be plain, I did as well use justice in your said mass case by my conscience as by law, wherein I am fully bent to stand in trial to the utmost that can be objected. And If I have therein done any injury or wrong, let me be judged by the law ; for I will seek no better defence, considering chiefly that it is my profession.”

*Lord Chancellor.* — “Why, Master Hales, although you had a rigour of the law on your side, yet ye might have regard to the Queen's Highness's present doings in that case. And further, although ye seem to be more than precise in the law, yet I think ye would be very loth to

yield to the extremity of such advantage as might be gathered against your proceedings in the law as ye have sometimes taken upon you in place of justice, and if it were well tried, I believe ye should not be well able to stand honestly thereto." *Hales, J.*—"My Lord, I am not so perfect but I may err for lack of knowledge. But, both in conscience, and such knowledge of the law as God hath given me, I will do nothing but I will maintain and abide in it; and if my goods, and all that I have, be not able to counterpoise the case, my body shall be ready to serve the turn, for they be all at the Queen's Highness's pleasure." *Lord Chancellor.*—"Ah, sir, ye be very quick and stout in your answers. But as it should seem that which you did was more of a will favouring the opinion of your religion against the service now used, than for any occasion or zeal of justice, seeing the Queen's Highness doth set it forth as yet, wishing all her faithful subjects to embrace it accordingly; and where you offer both body and goods in your trial, there is no such matter required at your hands, and yet ye shall not have your own will neither." *Hales, J.*—"My Lord, I seek not wilful will, but to show myself, as I am bound, in love to God, and obedience to the Queen's Majesty, in whose cause willingly, for justice sake, all other respects set apart, I did of late, as your Lordship knoweth, adventure as much as I had. And as for my religion, I trust it be such as pleaseth God, wherein I am ready to adventure as well my life as my substance, if I be called thereunto. And so in lack of mine own power and will, the Lord's will be fulfilled." *Lord Chancellor.*—"Seeing you be at this point, Master Hales, I will presently make an end with you. The Queen's Highness shall be informed of your opinion and declaration. And as her Grace shall thereupon determine, ye shall have knowledge. Until such time, ye may depart as you came without your oath; for as it appeareth, ye are scarce worthy the place appointed." *Hales, J.*—"I thank your Lordship; and as for my vocation being both a burden and a charge more than ever I desired to take upon me, whensoever it shall please the Queen's Highness to ease me thereof, I shall most humbly, with due contention, obey the same."\*

In this witty rencontre it must be confessed that the Chancellor had the worst of it; but the poor Puisne ere long had reason to regret his triumph, for not only was he dismissed from his office of Judge, but in a few days after he was committed to the King's Bench prison, where he remained in close custody till Lent in the following year, when he was transferred to the Compter in Bread Street. He was then sent to the Fleet, where he was frightened to such a degree by stories which the keeper told him of the torments in preparation for those who denied the supremacy of the Pope, that he attempted to commit suicide by stabbing himself, and when he was at last discharged, his mind was so much weakened by the hard usage he had

\* Somers' Tracts, 2 Coll. vol. xcv. 1 St. Tr. 714.

undergone, that he drowned himself in a river near his own house in Kent.\*

Gardyner incurred greater odium by advising, as a discouragement to the reformers, the execution of the Lady Jane Grey, and her youthful husband, Lord Guilford Dudley, a cruelty not palliated by Wyat's rebellion, with which they had no privity. He behaved generously, however, to the Princess Elizabeth, and procured her release from the Tower, perhaps because she had, about this time, been induced to conform to the Catholic worship.

Where religion was not concerned, Gardyner showed himself a wise and even patriotic statesman. When the important question of the Queen's marriage came to be discussed, he strongly recommended to her choice a handsome Englishman, Courtenay Earl of Devonshire, so that the liberties and independence of the nation might not be endangered by an alliance with a foreign prince. Mary was at first inclined to take his advice, till piqued by the preference which Courtenay showed to Elizabeth, and alarmed by his dissolute character, she formed a determination to marry her cousin, Philip of Spain, from which Gardyner in vain laboured to divert her. She declared that "she would prove a match for all the cunning of the Chancellor;" and having sent for the imperial ambassador, kneeling at the altar, she, in his presence, pledged her faith to Philip, and vowed that while she lived she never would take any other man for her husband.

Gardyner contrived to get an address voted to her from the House of Commons, which, after earnestly pressing her to marry, expressed strong apprehension of a foreign alliance. When told of it, she said she would answer it with her own mouth. Accordingly, when the Speaker had read the address, and it was expected that the Chancellor, as usual, would answer in her name, she herself replied, "that for their expressions of loyalty, and their desire that the issue of her body might succeed her on the throne, she sincerely thanked them; but in as much as they pretended to limit her in the choice of a husband, she thanked them not. The marriage of her predecessors

\* The coroner's jury very unjustly brought in a verdict against him of *felo de se*, which gave rise to the famous question whether, "if a man kills himself, the crime of suicide is to be considered as complete in his lifetime or not?" He held an estate as joint tenant with his wife, which it was contended was forfeited to the Crown by his felony. The Counsel for Lady Hales argued ineffectually that a man cannot kill himself in his lifetime. The legal reasoning in Judge Hale's case (which is reported in Plowden<sup>2</sup>) is copied almost word for word in the dialogue between the grave-diggers in Hamlet upon the parallel case of Ophelia:—

1st Clo. "Here lies the water; good: here stands the man; good: If the man go to this water and drown himself, it is, will he, nill he, he goes: mark you that. But if the water come to him and drown him, he drowns not himself. Argal, he that is not guilty of his own death, shortens not his own life."

2d Clo. "But is this law?"

1st Clo. "Ay, marry is't, crowner's quest law."

<sup>2</sup> Hales v. Patit, Plowd. 253.

had always been free, nor would she surrender a privilege which they had enjoyed.”\*

Finding her immovable, Gardyner took care that the articles of marriage should be as favourable as possible for the interest and security of England, by stipulating, that though Philip should have the title of King, the administration should be entirely in the Queen; that no foreigner should be capable of enjoying any office in the kingdom; that no innovation should be made in the English laws, customs, and privileges; and that Philip should not carry the Queen abroad without her consent, nor any of her children, without the consent of the nobility. As soon as the treaty was signed, the Chancellor called a meeting of the Lord Mayor, Aldermen, and citizens of London, at Guildhall, and, in an eloquent discourse, explained to them the many and valuable benefits which he anticipated from an union between their Queen and a Prince, the apparent heir of so many rich and powerful states.

Parliament assembling, the Chancellor opened the session by a speech in which he dwelt on the Queen's hereditary title to the Crown, maintained her right of [APRIL 5, 1554.] choosing a husband for herself,—observed how proper a use she made of that right by giving the preference to an old ally descended from the house of Burgundy,—and, remarking the failure of Henry VIII.'s posterity, of whom there now remained none but the Queen and the Lady Elizabeth, added, that in order to obviate the inconveniences which might arise from different pretenders, it was necessary to invest the Queen by law with a power of disposing of the Crown, and of appointing her successor, which had belonged to her father.

Both Houses ratified the articles of marriage, but they refused to pass any such law as the Chancellor pointed out to them, and it is supposed that he made the suggestion only to please the Queen; for the power might have been used not only by setting aside the Lady Elizabeth, at which he would have rejoiced, but by appointing Philip to succeed, to which he never would have consented.

The royal bridegroom at last arrived at Southampton, and in the cathedral church of Winchester the Lord Chancellor [JULY, 1554.] himself celebrated the marriage between him and Mary, which he had done all in his power to prevent, and which turned out so inauspiciously. His power, however, was if possible increased; for the Emperor Charles, having the highest opinion of his wisdom, had strongly exhorted Philip in all things to be guided by his councils.

The passionate wish of the Court now was to consummate the reconciliation with Rome, and for this purpose a parliament was summoned to meet in November. To ensure a favourable House of Commons, Gardyner sent circulars in the Queen's name to the Sheriffs, who were all Catholics, desiring them to use their influence that no favourer of heresy might be elected.

On the day of meeting there was a grand procession to Westminster Abbey, led by the Commons,—the Peers and Prelates following,—the Chancellor being last; then came Philip and Mary, in robes of purple, the King on a Spanish genet, richly caparisoned, attended by the Lords of his household, the Queen on a litter surrounded by her ladies of honour. A religious ceremony after the ancient fashion being performed, and all being duly ranged in the Parliament Chamber, the Chancellor from his place in front of the throne addressed the two Houses. “The Queen’s first parliament,” he said, “had re-established the ancient worship,—the second had confirmed the Articles of her marriage,—and their Majesties expected that the third, in preference to every other object, would accomplish the re-union of the realm with the universal Church.”

The bills brought in for this purpose passed the Lords unanimously, [Nov. 1554.] and were opposed only by two members of the House of Commons. Cardinal Pole, whose attainder had been reversed, having been appointed Archbishop of Canterbury and legate *à latere* from the Pope, had a few days before arrived in England, and on his landing had been received with great distinction by the Chancellor. His attainder being reversed, he was now introduced into parliament, and the King and Queen being present, the Chancellor spoke as follows:—“My Lords of the Upper House, and you my masters of the Nether House here present, the Right Reverend Father in God, my Lord Cardinal Pole, Legate *à latere*, is come from the Apostolic See of Rome as ambassador to the King’s and Queen’s Majesty upon one of the weightiest causes that ever happened in this realm, and which pertaineth to the glory of God and your universal benefit. The which ambassade their Majesties’ pleasure is to be signified unto you all by his own mouth, trusting that you receive and accept it in as benevolent and thankfulwise as their Highnesses have done, and that you will give attentive and inclinable ears unto his Grace, who is now ready to declare the same.”\*

The Cardinal, after saying that “the cause of his repair hither had been most wisely and gravely declared by my Lord Chancellor,” delivered a long oration on the sin of schism and the wickedness of the proceedings in England, which had brought about the disruption from the true Church, and proclaimed his readiness, on due submission, to restore them to her bosom.

Both Houses agreed in an address, expressing their deepest contrition for what they and their fathers had done against the Pope, and praying that his supremacy might be re-established as the true successor of St. Peter and Head of the universal Church.

On the feast of St. Andrew, the Queen having taken her seat on the throne, the King seated on her left hand, the Legate, [Nov. 30.] at a greater distance and a degree lower, on her right, the Chancellor read the address, and the Cardinal, after a speech of some

duration, absolved "all those present and the whole nation, and the dominions thereof, from all heresy and schism, and all judgments, censures, and penalties for that cause incurred, in the name of the Father, Son, and Holy Ghost." The Chancellor called out *Amen!* and this word resounded from every part of the hall.\*

The Legate making his public entry into the City, the Lord Chancellor preached at Paul's Cross, and, lamenting in bitter terms his own misconduct under Henry VIII., exhorted all who had fallen through his means to rise with him and seek the unity of the Catholic Church.

Had Gardyner died that night, he would, upon the whole, have left a fair fame to posterity: he would have been the unqualified boast of the Roman Catholics; and Protestants could not have refused to do honour to his firmness and courage,—making due allowance for the times in which he lived, and comparing him with Cranmer, their own hero, who had been much more inconsistent, and almost as vindictive;—but his existence being unfortunately prolonged for another year, during which, under his direction, the fires blazed without intermission in Smithfield, and the founders of the reformed church in England suffered as martyrs,—Roman Catholics are ashamed of him, and his name coupled with that of Bonner, whom he employed as his tool, is still used to frighten the children of Protestants.

He deliberately formed the plan of entirely crushing the Reformation in England, by using the necessary degree of force for that purpose. However much we may abhor the cruel and relentless disposition evinced by such a plan, we ought not, from the event, rashly to condemn it as foolish. The blood of martyrs is said to be the seed of the Church; nevertheless persecution, in a certain proportion to the numbers and spirit of those who are to be subdued, may prove effectual. Thus the Lutheran heresy was completely suppressed in Spain and in Italy by the Inquisition. In England the higher ranks and the great bulk of the nation had so easily conformed to the religious faith or ecclesiastical caprice of the Sovereign for the time being, that a reasonable expectation might be entertained that there would be a general acquiescence in the renewed connection with Rome, and that strict inquiry into the profession of heretical opinions, with some terrible examples of severity when they were obstinately adhered to, might, in a short time, produce uniformity of faith throughout the realm. Cardinal Pole, though a much more sincere believer than Gardyner, took the opposite side, and wished that reason and persuasion only should be used to bring about the return to the Church of those who had erred.

The matter being debated in the Council, and the conflicting opinions being submitted to Mary,—after she had consulted with Philip, she

\* This precedent is now probably frequently consulted by those who wish to bring about a similar reconciliation.

returned to the Chancellor the following answer, which was a warrant to him, under very easy conditions, to proceed to any extremities:—“Touching the punishment of heretics, we think it ought to be done without rashness,—*not leaving in the mean time to do justice to such as by learning would seem to deceive the simple*, and the rest so to be used that the people might well perceive them not to be condemned without just occasion; by which they shall both understand the truth, and beware not to do the like. And especially within London I would wish none to be burnt” (how mild and merciful!)—“without some of the council present, and both there and every where good sermons at the same time.”

Gardyner having got all the old laws against Lollardy and the denial of transubstantiation revived,—vigorously began his great enterprise. For the trial of heretics under these statutes he constituted a Court, of which he, as Lord Chancellor, was made the presiding Judge.

On the 22d of January, 1555, he mounted his tribunal assisted by thirteen Bishops and a crowd of Lords and Knights, and he ordered to be placed at the bar Hooper, the deprived Bishop of Gloucester,—Roger, a prebendary of St. Paul’s,—Saunders, rector of Allhallows, in London,—and Taylor, rector of Hadley, in Suffolk,—all charged with denying the Papal supremacy now re-established by law. They tauntingly replied, that the Lord Chancellor, before whom they were tried, had himself taught them to reject the authority of the Bishop of Rome, in his unanswerable treatise “*De vera Obedientia*,” which had been so much approved of by the Queen’s royal father, that renowned sovereign, Henry VIII. This *argumentum ad hominem* did not prevail, and the Lord Chancellor said they ought to have been reconverted by his subsequent treatise, entitled “*Palinodia dicti Libri*,” which he now recommended to their perusal; and a delay of twenty-four hours was given them for consideration. At the end of that time, as they stuck to the text of the Lord Chancellor’s earlier work, they were condemned to the flames. He, with professions of mercy, made out a conditional pardon for each of them, under the Great Seal, to be offered them on recantation at the stake. Those protomartyrs of the Reformed Church of England all displayed an equal constancy, and scorned to purchase the continuance of life by feigning an assent to doctrines which they did not believe.

Gardyner did not personally preside at the subsequent trials; but he felt no hesitation in persevering in the line of policy he had adopted, and (perhaps with a view to a favourable contrast) he was represented in Court by Bonner, Bishop of London, the most brutal and bloody persecutor who ever appeared in this island; but the Chancellor himself actively directed almost all the arrests, examinations, and punishments of the Protestants. Cranmer, Ridley, and Latimer, now suffered under circumstances familiar to us all from early infancy; and in the course of a few months, by Gardyner’s orders, there perished at the stake, as heretics, in different parts of England, above

seventy persons, some of them of the softer sex, and some of tender years.

Not satisfied with punishing those who taught, or openly dogmatised contrary to the established creed, men's thoughts were scrutinised ; and, to do this more effectually, Gardyner issued a commission, bearing a close resemblance to the Spanish Inquisition, authorising twenty-one persons, or any three of them, "to search after all heresies, the bringers in, the sellers, and the readers of all heretical books, to punish all persons that did not hear mass or come to their parish church to service, or that would not go in processions, or would not take the holy bread or holy water, and to force all to make oath of such things as ought to be discovered, and to put to the torture such obstinate persons as would not confess."\*

While these atrocities were going forward, an occurrence took place, of which Gardyner took immediate advantage to further his designs. Mary, supposing herself pregnant, he pronounced the prospect of an heir to be the reward of Heaven for her piety ; and as she fancied that she felt the infant stir in her womb when the Pope's Legate was introduced to her, he compared it to what happened to the mother of John the Baptist at the salutation of the Virgin. The Chancellor, with nine others of the Cabinet Council, immediately addressed a letter to Bonner, as Bishop of London, ordering "Te Deum" and masses to be celebrated on the occasion ; he sent messengers to foreign courts to announce the event ; and he settled the family of the young prince, as he confidently predicted the child would be a male. Some have said that he was aware from the beginning that Mary's infirmities rendered her incapable of having children, and that he resorted to a political artifice for the purpose of strengthening his power. He certainly kept up the delusion in the nation long after the physicians had declared that her Majesty's increased size arose from a dropsy. It was probably a knowledge of her real condition which induced him very readily to oblige her, by bringing in and supporting a bill constituting Philip, in case of her death, unlimited Regent during the minority of her son. What might have been the effect of this system of persecution on the reformation in England, had Gardyner long survived to carry it into vigorous execution, we cannot tell. His career was near its close.

On the 21st of October parliament again met, and Mary, now deserted by her husband, rode to the parliament-house [A. D. 1555.] all alone in a horse-litter, to be seen of every one. The Lord Chancellor, by her direction, produced a Papal bull confirming the grants of Church property, and delivered a speech to both Houses, detailing the great exertions of the Government for the good of the Church, and explaining the wants of the Crown and the clergy. It was remarked that on this and the following day, when he was again in his place, he displayed uncommon ability in unfolding and defending

\* Burnet, vol. iii. p. 243. 246.

his measures.\* But on his return from the House, on the second day, he was suddenly taken ill in his chamber, and, without being ever able to leave it, on the 12th of November he [A. D. 1555.] expired. Strange and groundless stories were propagated respecting the nature of his malady; and in the next age it was said he had been struck by it, as a judgment from Heaven, on the day that Bishop Ridley and Bishop Latimer were burnt, when, waiting for the joyful news, though the old Duke of Norfolk was to dine with him, he would not go to dinner until the unexampled hour of four in the afternoon†; but, on an examination of dates, it will be found that these victims had been offered up before the opening of parliament, and before he had so much distinguished himself by his eloquence.‡

He felt great penitence in his last moments. The passion of our Saviour being read to him, when they came to the denial of Peter he bid them stay there, for, saith he, “*Negavi cum Petro, exivi cum Petro, sed nondum flevi cum Petro.*” This remorse arose not from the cruelties he had inflicted, but from the temporary renunciation of his allegiance to the Pope.

To the time of his death he was in possession of the Great Seal, and the entire confidence of his Sovereign.

In those times religious controversy so completely absorbed the attention of mankind, that we read little of him as a Judge; but, in the absence of all complaint, we may fairly infer that he acquitted himself with ability and impartiality. The profound knowledge of jurisprudence which he early acquired he kept up and extended by continual study, and his practice in the ecclesiastical Courts must have well initiated him in judicial procedure. It had been intended that the equitable jurisdiction of the Court of Chancery over landed property should be, in a great measure, abolished by the statute of Uses;§ but by a decision of the common-law Judges, while Gardyner

\* “*His duobus diebus ita mihi visus est non modo seipsum iis rebus superasse quibus ceteros superare solet, ingenio, eloquentia, prudentia, pietate, sed etiam ipsas sui corporis vires.*” — Bale.

† At this time it was a mark of gentility and fashion to dine *early* instead of late. “With us the nobility, gentry, and students, do ordinarily go to dinner at eleven before noon, and to supper at five, or between five and six at afternoon. The merchants dine and sup seldom before twelve at noon and six at night. The husbandmen also dine at high noon as they call it, and sup at seven or eight; but out of term in our universities the scholars dine at ten.” — Hall, *Descr. G. Brit.* These hours were probably reckoned rather late, for Froissart mentions that having himself called on the Duke of Lancaster at five o’clock in the afternoon, he found that supper was over. Down to this time, the Courts of law meeting at seven in summer and eight in winter, never sat later than eleven in the forenoon; though some Chancellors, like Sir Thomas More, had sittings again after dinner.

‡ Ridley, Latimer, and Collier, suffered at Oxford on the 16th of October, and parliament did not meet till the 21st.

§ 27 Hen. 8. c. 10.

was Chancellor, it was held that a use could not be limited on a use,\* so that the doctrine of uses was revived under the denomination of trusts, and a statute made on great deliberation, and introduced in the most solemn manner, in the result had little other effect than to introduce a slight alteration in the formal words of a conveyance.†

As a statesman, he is to be praised for great discernment and vigour. He had even a regard for the liberties as well as independence of his country, and on several memorable occasions gave constitutional advice to the Sovereigns whom he served.‡ But whatever good inclinations he had, they were all under the control of ambition, and never obstructed his rise. In the various turns of his fortune he displayed a happy lubricity of conscience, which surmounted or evaded every obstacle, convincing him that his duty coincided with his interest. Though his strong sense and persuasive manners gave him an appearance of sincerity, he had an insidious cast of his eye, which indicated that he was always lying in wait; and he acquired at last such a character for craft and dissimulation, that the saying went, “*My Lord of Winchester is like Hebrew, to be read backwards.*”

He lived in great style at Winchester House, in Southwark, where he had a number of young gentlemen of family as his pages, whose

\* Jane Tyrrel's case, Dyer, 152. See Bl. Com. 336. 4 Reeve, Hist. of Law, 520.

† There is to be found in the Registrar's Book a very curious decree of Lord Chancellor Gardyner, pronounced with a view to enforce the celibacy of the clergy. He held that a lease granted by an incumbent, after he had “contrary to his vow, and contrary to the ecclesiastical laws, married a wife,” was void, and he granted an injunction against the lessee continuing in possession. — *Hinkersfield v. Bailey*, Reg. Lib. 16 June, 5 P. & M., p. 18.

‡ “The Lord Cromwell,” says Gardyner in one of his letters, “had once put in the King's head to take upon him to have his will and pleasure regarded for a law; and thereupon I was called for at Hampton Court. And as he was very stout, ‘Come on, my Lord of Winchester,’ quoth he, ‘answer the King here; but speak plainly and directly, and shrink not, man. Is not that,’ quoth he, ‘that pleaseseth the King a law? Have you not that in the civil law, *QUON PRINCIPALI PLACUIT, &c.*?’ I stood still, and wondered in my mind to what conclusion this would tend. The king saw me musing, and with gentle earnestness said, ‘Answer him whether it be so or no.’ I would not answer the Lord Cromwell, but delivered my speech to the King, and told him that ‘I had read of Kings that had their will always received for law, but that the form of his reign to make the law his will was more sure and quiet; and by this form of government ye be established,’ quoth I, ‘and it is agreeable with the nature of your people. If you begin a new manner of policy, how it may frame no man can tell.’ The King turned his back and left the matter.” — Fox, ii. 65.

In Mary's time, the Spanish ambassador submitted a plan to her by which she should be rendered independent of Parliament. Sending for Gardyner she made him peruse it, and adjured him, as he should answer at the judgment-seat of God, to speak his real sentiments respecting it. “Madam,” replied the Chancellor, “it is a pity that so virtuous a lady should be surrounded by such sycophants. The book is nought; it is filled with things too horrible to be thought of.” She behaved better than her father, as above related, for she thanked him, and threw the paper into the fire. — Burnet, ii. 278.

education he superintended. His establishment was the last of this sort in England, for Cardinal Pole did not live long enough to form a great household at Lambeth, and after the Reformation the Bishops' palaces were filled with their wives and children. He daily came up the river Thames, in his great state barge, to Whitehall and Westminster.—He was interred with much pomp in the cathedral at Winchester.

Although, being an ecclesiastical Chancellor, we have nothing to say of his descendants, we must not forget the progeny of his brain. He was a voluminous and popular author, but none of his writings have preserved their celebrity; not even his "Defence of Holy Water," which had a prodigious run for some years. He entered keenly into the dispute which raged in Cambridge in his time respecting the right pronunciation of Greek; and when he was chosen Chancellor of that University, notwithstanding his conservative notions, he patronised the new studies which were there introduced in rivalry to Aristotle and Aquinas. Had he lived in happier times, he might have left behind him a reputation for liberality of sentiment and humanity of conduct.\*

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## CHAPTER XLII.

### LIFE OF LORD CHANCELLOR HEATH.

THE sudden death of Gardyner was a heavy blow to Queen Mary, in the absence of Philip;—and she was exceedingly perplexed in the [Nov. 1555.] choice of a successor. She might easily have selected an eminent lawyer from Westminster Hall, but she at once resolved that "the Keeper of her Conscience" must be an ecclesiastic. According to the common course of promotion, the Great Seal ought to have been offered to her cousin, Cardinal Pole, appointed Archbishop of Canterbury on the deprivation of Cranmer, and after the example of Wolsey, his legatine functions could have been no obstacle to this arrangement. Though Pole was not much versed in juridical practice, he was intimately acquainted with the civil as well as canon law; and, with good advice, he might have presided very reputably as an equity judge. Mary had a great personal regard for him and the highest respect for his learning and piety, but she placed no reliance on his civil wisdom, and was greatly shocked by his leaning in favour of toleration. In some respects, Bishop Bonner

\* It seems unaccountable that there has never hitherto been a separate life of Gardyner, although he made such a distinguished figure in three reigns, and in one most interesting reign was not only Lord Chancellor but Prime Minister, with power almost as great as that of Wolsey.

would have been much more agreeable to her; but, notwithstanding his claims as a furious zealot and remorseless persecutor, he was so brutally ignorant, his manners were so offensive, and he was so generally abhorred, that she was afraid to add to the odium she was sensible her government had already incurred, by placing such a man at the head of the administration of justice. The episcopal bench furnished no other individual of whom she could entirely approve. But it was now the middle of Michaelmas term; and some arrangement must be made for transacting the business of the Court of Chancery. In this perplexity, to obtain time for further deliberation, she issued a commission to Sir Nicholas Hare, the Master of the Rolls, and others, to hear causes and to issue writs under the Great Seal, on account of the death of Lord Chancellor Gardyner, till a successor to him should be appointed.\*

She, at length, fixed upon the least exceptionable person presented to her choice; and

“On Friday, the 1st of January, in the second and third year of the reign of Philip and Mary, by the Grace of God, [JAN. 1556.] of England, France, Naples, Jerusalem, and Ireland, King and Queen, Defenders of the Faith,” [not Heads of the Church,] “Prince and Princess of Spain and Sicily, Archduke and Archduchess of Austria, Duke and Duchess of Milan, Burgundy, and Brabant, Count and Countess of Hapsburg, Flanders, and the Tirol, between the hours of four and six in the afternoon, the Great Seal of the said King and Queen, being in the Queen’s custody, inclosed in a bag of leather, covered with a bag of red velvet, at Greenwich, in her inner private chamber there, was delivered by her to the most Reverend Father in God, Nicholas, Archbishop of York, whom she then and there constituted her Chancellor of England.”†

This choice was made on the ground that the object of it was a man of spotless moral character, of undoubted orthodoxy, of respectable learning and ability, and of a quiet passive disposition; so that if he would not originate, he would not obstruct the necessary measures for consummating the reconciliation with Rome and extinguishing the Lutheran heresy in England.

NICHOLAS HEATH was the son of a citizen of London, and born there in the early part of the reign of Henry VII. He was educated at St. Anthony’s school, in Threadneedle Street, famous at that time

\* Rot. Par. 2 & 3 Ph. & M.

† R. Cl. 2 & 3 Ph. & M. “Et superinde præc[u]s Revdiss. Pater N. Eber. Archæ sigillum præ de manibus ipsius dñe Regne tunc gratulr accipiens in nobilium viro- rum W. Marchionis Winton. &c. præcia curam et custodiam ejusdem Magni Sigilli Anglie de offici Cancellari Angl. sup se assumens sigillum illud illud penes se retinuit et retinet in præci.” The entries now are silent as to swearing in the Chancellor, and this entry is a rare instance of omitting to state that the new Chancellor took the Seal from the bag and sealed with it some writ or patent in the presence of the Sovereign.

for its discipline, and for the great men it turned out ; among whom were two Lord Chancellors.\* He was entered a student at Christ College, Cambridge ; and after taking his degree with distinguished credit, he was elected a fellow of Clare Hall. During one of Wolsey's visits to this University, Heath was presented to him as a great proficient in classical and theological learning. The Cardinal, who was always ready to patronise merit, took a fancy to him, made him one of his own chaplains, and afterwards chaplain to the King. Heath afterwards succeeded to be almoner to Henry ; and although he never actively enlisted himself in any of the factions which divided the Court, he was successively promoted by that Sovereign to the sees of Rochester and Worcester. Like every other Bishop in England, he was compelled to acknowledge the King's ecclesiastical superiority ; but he was supposed to have a secret understanding with Rome, and he steadily concurred with Lord Chancellor Wriothesley, the Duke of Norfolk, and Bishop Gardyner, in resisting any further innovation.

During the Protectorate of the Duke of Somerset, he voted in the House of Lords against all the bills for bringing about a change of religion ; but, conducting his opposition with moderation, occasion could not be found for taking any violent proceedings against him till the act was passed for a new "ordinal," or form of ordination of the clergy, which was to be framed by twelve commissioners, to be appointed by the Crown. Although he had expressed his dissent to the measure, he was insidiously named one of the Commissioners, along with eleven stanch reformers. They proposed a form, which they contended preserved whatever according to Scripture was necessary for the ordination of Bishops, Priests, and Deacons. He insisted that it made no material distinction between these orders ; that it had carefully omitted what was requisite to impart the sacerdotal character ; and that, if it were adopted, there would be a breach in the apostolical succession in the Church. The Council nevertheless [A.D. 1550.] peremptorily required him to subscribe it ; and, on his refusal, committed him to prison for a contempt.†

Not satisfied with this, they soon after resolved to deprive him of his bishopric if he would not conform ; and they cunningly examined him with respect to the proper construction of altars, and the mode of

\* Here, as we have before related, Sir Thomas More received the rudiments of his education. Stowe, after celebrating the scholastic disputations he had witnessed in the churchyard of St. Bartholomew, "where upon a bank boarded about under a tree some one scholar hath stepped up, and there hath apposed and answered till he were by some better scholar overcome and put down, — and then the overcomer taking the place did the like as the first," says, "I remember there repaired to these exercises amongst others the masters and scholars of the free schools of St. Paul's in London, of St. Peter's at Westminster, of St. Thomas Acon's hospital, and of St. Anthony's hospital, whereof the last named commonly presented the best scholars, and had the prize in those days." — Stowe's *London*, p. 75.

† Burnet, ii. 143.

placing them in churches,—a subject on which he was known to be particularly sensitive. But he was resolute, telling them that “of other mind he thought never to be, and that consent he would not, if he were demanded to take down altars and set up tables.” Being threatened with deprivation if he did not submit within two days, he replied, “that he could not find in his conscience to do it, and should be well content to abide such end, either by deprivance or otherwise, as pleased the King’s Majesty.” He was sent back to prison; a commission of delegates pronounced sentence of deprivation against him, and he was kept in close custody till the commencement of the next reign.

Upon the accession of Mary he was liberated and restored to his benefit, along with the other deprived Roman Catholic Bishops; and as he was justly considered, by reason of his son of his constancy and his private virtues, a great ornament to the ancient faith, he was soon after promoted to the archbishopric of York. It was supposed that he secretly coincided in opinion with Cardinal Pole in disapproving the violent measures of persecution to which Gardyner now resorted; but he had not the boldness openly to oppose them. A just estimate had been formed of his character when he was selected as Gardyner’s successor; for however much he might wish that reason and persuasion alone might be relied upon for making converts to the true Church,—after his appointment the fires of Smithfield continued to blaze as before\*.

He took his seat in the Court of Chancery on the first day of Hilary term, 1556; and was found as a Judge to display patience and good sense, and to act with impartiality and integrity; but, never having had any training whatever in jurisprudence, he got through his judicial business in a most unsatisfactory manner; and the clamour of the bar, and the suitors, and the public, which was thus raised, prevented the appointment of any other ecclesiastic to hold the Great Seal till Bishop Williams, the very last of his order who ever sat in the marble chair, was appointed Lord Keeper by James I.

The parliament which was sitting at the death of Gardyner was dissolved, in presence of the Queen, by Ex-chancellor the Marquis of Winchester, then Lord Treasurer; [DEC. 9, 1555.] and another parliament was not called till the beginning of the year 1558.

\* We have a statistical table, on the authority of Lord Burghley, of burnings by Mary and her cabinet, rather favourable to the memory of Gardyner:—

In 1555 (Gardyner, Chancellor)	-	-	-	71
1556 (Heath, Chancellor)	-	-	-	89
1557 (ditto ditto )	-	-	-	88
1558 (ditto ditto )	-	-	-	40

However, it was Chancellor Gardyner who set the wheel of persecution in motion, and it continued to revolve when his hand had been withdrawn from it.

This was opened by a speech from Lord Chancellor Heath;\* but [JAN. 20, 1558.] we have no account of his topics, except that he pressed for an aid to her Majesty. We may conjecture that he touched upon the loss of Calais, which had caused such universal consternation, and that he held out a hope, if sufficiently liberal supplies were voted, of wiping off this national disgrace.

He had immediately after to decide a question of parliamentary privilege. Thomas Eym斯, burgess for Thirsk, complained to the House of Commons that, while in attendance as a member, a subpoena had been delivered to him to appear in Chancery, and that if engaged in a Chancery suit he could not discharge his duty as a representative of the people. The House, in great indignation, immediately ordered Sir Clement Higham and the Recorder of London to go to the Lord Chancellor, and require that the process should be revoked.† All Chancellors hitherto have acknowledged parliamentary privilege as declared by either House, however much they may have vapoured as to what, under other circumstances, they would have done, and the writ was quashed.‡

Acts, proposed by the Lord Chancellor, having been passed — to take away clergy from accessories in petty treason and murder, — to allow a *tales de circumstantibus* in the case of the Queen, — and to punish such as should forcibly carry off maidens under sixteen,§ he, by the Queen's command, prorogued the parliament to the 5th of November.

When this day arrived Mary was approaching her end — in a state of the greatest mental dejection from the irremediable loss of Calais, the neglect of her husband, the discontent of her subjects, the progress of the reformed religion in spite of all her cruelties, her despair of children, and the prospect of a Protestant succession. Being unable to attend in person, a commission passed the Great Seal, authorising the Chancellor and others to hold the parliament in her name ; and he delivered a speech pointing out the necessity for some measure to restrain the evils of licentious printing, whereby sedition was now spread abroad, and showing that, from the destitute state of the exchequer, the Queen's forces could not be kept on foot, and the safety of the realm was endangered. He accordingly introduced a bill, enacting that "no man shall print any book or ballad unless he be authorised thereunto by the King and Queen's Majesties' license under the Great Seal of England." The art of printing had not been known in this country much more than half a century, and was already found a most formidable instrument in guiding public opinion, and in assailing or [JUNE 6, 1558.] supporting the Government. During the recess a proclamation had been issued, stating that books filled with heresy, sedition, and treason, were daily brought from beyond seas, and were covertly reprinted within the realm, and ordering

\* 1 Parl. Hist. 629.

† Ibid. 630.

‡ Hats. Proc. 1 Parl. Hist. 630.

§ 4 & 5 Ph. & M. c. 5. 7, 8.

that "whosoever should be found to have any of the said wicked and seditious books should be reputed a rebel, and executed according to martial law."\* But this was such a stretch of authority as, even in those days, caused great complaint, and probably the Judges, dependent as they were, would have resisted it. The Chancellor's bill, having passed through its previous stages, was appointed to be read the third time on the 16th of November, — but when that day arrived the Queen was at the point of death, and all public business was suspended.

Meanwhile some very curious proceedings were going on in the Lower House respecting the supply. The Commons, finding that the Queen had impoverished the exchequer by restoring property to the Church, and by new religious endowments, would not open their purse-strings. On the 7th of November Mary, ill as she was, sent for the Speaker, and ordered him "to show to the Commons the ill condition the nation was in; for, though a negotiation was going on for a peace with France, prudence required that the nation should be put into a state of defence, in case it should miscarry." Still the Commons were so dissatisfied, that, after a week's deliberation, they could come to no resolution.

As a last effort, on the 14th of November, Lord Chancellor Heath, accompanied by the Duke of Norfolk, the Lord Treasurer, and several other Peers and Bishops, went down to the Commons, walked into the House, and "seated themselves in that place where the Privy Councillors used to sit," — which we now call "the Treasury Bench." The Speaker left his chair, and he, with the Privy Councillors in the House, came and sat on low benches before them. The Lord Chancellor then made them a speech, proving the necessity for granting a subsidy to defend the nation, both from the French and the Scots. Having concluded, he with the other Lords immediately withdrew to their own chamber.†

This proceeding does not seem to have been considered any breach of privilege, but it had not the desired effect. The two following days the Commons continued the debate. On the afternoon of the third day, while they were still in deliberation, they received a summons requiring the Speaker and their whole House to come to the bar of the Upper House, when they should hear certain matters that the Lords had to communicate to them.

Upon their arrival, the Lord Chancellor Heath, in a solemn tone, announced "that God had taken to his mercy their late Sovereign the Lady Mary, and had given them another in the person of her sister, the Lady Elizabeth, whom he prayed God to preserve and bless." He then recommended that they should all assemble in Westminster Hall, where the Lords would come and cause her to be forthwith proclaimed Queen of England.

Elizabeth was accordingly proclaimed, first in Palace Yard before

\* Strype, iii. 459.

† 1 Parl. Hist. 631.

[Nov. 17, 1558.] the members of the two Houses, and again at Temple Bar, in the presence of the Lord Mayor, Aldermen, and Companies of the city, amidst the deafening acclamations of the people.

The new Sovereign was then at Hatfield, in Hertfordshire, where she had been living for some time in great seclusion. Early next morning, the Lord Chancellor and most of the Council waited upon her there, in a body, to give in their allegiance. Heath, as first in dignity, addressed her, congratulating her upon her accession to the throne, and the unanimity and joy with which her title was acknowledged by all classes of her subjects.

Cecil had been beforehand with them, and had already gained her entire confidence, notwithstanding the part he had taken in Northumberland's treason on the death of Edward VI., by which she would have been set aside, and notwithstanding his wary conformity during the whole of Mary's reign. He had prepared an answer for her which she now delivered, to the effect that "she was struck with amazement when she considered herself and the dignity to which she was called ; that her shoulders were too weak to support the burden, but it was her duty to submit to the will of God, and to seek the aid of wise and faithful advisers ; that for this purpose she would, in a few days, appoint a new Council ; that it was her intention to retain several of those who had been inured to business under her father, brother, and sister ; and if the others were not employed, she would have them to believe that it was not through distrust of their ability or will to serve her, but through a wish to avoid that indecision and delay which so often arise from the jarring opinions of a multitude of advisers."

Heath, then on his knee, tendered her the Great Seal, — rather expecting that she would desire him to take it back and to become her Lord Chancellor. At this moment it was quite uncertain what part she was to take in religion ; and although there was a suspicion that she had an inclination in favour of the reformed doctrine, her conformity to the established ritual, and her famous answer when questioned about her belief in the real presence,\* led Heath and the Catholic party to hope that she would now declare in their favour. To his surprise and chagrin, however, having received the Great Seal into her hand, she immediately delivered it to Sir Ambrose Cane to carry it to her private chamber, there to remain till she should otherwise direct.†

\* " Christ was the Word that spake it,  
He took the bread and brake it ;  
And what the Word did make it,  
That I believe and take it."

† Memorandum Qd die Veneris XVIII. die Novembr anno primo Dne Elizabeth Regine, eadem Dns Regina existsens apud Hatfield Regia in Com. Hert. in Domo ejusdem Dne Regine ibidem, inter horas decimam et undecimam ante meridiem ejusdem diei, in camera presencie, tunc ibidem, presentibus Edwardo Comte Derb,

Nevertheless she spoke very courteously to the Ex-chancellor, and retained him as member of her Privy Council, along with twelve others who had served her sister,—adding eight new members. In truth, her policy, though not yet avowed, was determined upon, and she had resolved that, Cecil being her Minister, she should without violence restore the Reformation introduced under her brother, and put herself at the head of the Protestant party in Europe. It is lucky for us that she considered this to be for her interest, and that she was already afraid of all true Roman Catholics questioning her legitimacy, and preferring the title of her cousin Mary, Queen of Scots,—so that she felt the necessity for having the support of the Protestant States against this claim. She herself, as well as Cecil and her principal advisers, were far from being bigoted on the Protestant side, and if they had taken a different view of the question of expediency, England might have remained to this day under the spiritual dominion of the Pope.

The remainder of the career of Ex-chancellor Heath, though not marked by any very striking events, was most honourable to his character, and ought to make his memory revered by all denominations of Christians. Instead of following the example of the “willow-like” Marquess of Winchester, and adopting the new fashion in religion, he steadily though mildly adhered to that system in which he had been educated, and which he conscientiously believed to be divine; sacrificing not only his high civil office, but his ecclesiastical dignity of Archbishop, and contentedly retiring to poverty and obscurity.

His first open difference with the Queen was upon the occasion of her coronation. Although she, for a short time after her accession, observed a studied ambiguity, and she kept the hopes of the Catholics alive by assisting at mass, receiving the communion in one kind, burying her sister with the solemnities of the Romish ritual, and ordering a solemn requiem for the soul of the Empèror Charles V.; her determination to change the national religion was soon made manifest by her appointment of Protestants to places of power and profit, by her order forbidding the elevation of the host in her private chapel, and by a proclamation allowing the observance of the established worship “until consultation might be had in parliament by the Queen and the three estates.” The primacy not yet being filled up since the death of Cardinal Pole, who survived his cousin, Queen Mary, only a few hours, Heath, Archbishop of York was the highest func-

&c., ac alii Magm Sigillm Angle in custod Reverendissimi in Christo Pris Nichi Archp Ebor adtunc Cancellar Angl. existens prfte Dne Regine pr pfsum Reversim. Prem deliberat, erat ac eadem Dna Regina Magnum Sigillum prdm de manibus predi Reversimi Pris accipies Ambrosio Cane militi deliberabat ac prfus Ambros Cane, Miles, pr mandatum ipsius Dne Regine Magnum Sigillum prfum in privatam Cameram prfte Regne secum ferebat ibidem pr pfstam Dnam Reginam custodiend. quousq. eadem Regina alitr duxrit diliberand.” — Rot. Clas. 1 Eliz.

tionary in the Church, and he called a meeting of all the Prelates, to consider what was now fit to be done. A motion was made, and unanimously carried, that till satisfied of her adherence to the Church, none of them would put the crown on her head, or attend her coronation. This was considered a masterly move; for, though a change had taken place in the opinions of the people from the times when a King's reign dated only from his coronation, and he was supposed to have no right to allegiance till he had been anointed, — coronation was still considered an essential rite, and there had been no instance of an uncrowned Sovereign meeting parliament and making laws. But the Queen was relieved from this great embarrassment by the defection of one prelate, Oglethorpe, Bishop of Carlisle, who agreed to crown her — on condition that she should take the accustomed oath to preserve the liberties of the Church, receive the sacrament under one kind, and conform, during the ceremony, to all the ceremonies of the Catholic Pontifical.

The Queen was accordingly crowned; parliament was opened by [A. D. 1559. JAN. 15.] her, and a bill was introduced to declare her "Head of the Church." On the second reading of this bill, in the House of Lords, Heath, rising from the Arch-bishops' bench, delivered a very long oration, of which it [JAN. 25.] may be worth while to give an abstract, as a specimen of the style of debating which then prevailed. He thus began: "My Lords all, with humble submission of my whole talk unto your honours, I purpose to speak to the body of this act, touching the supremacy." Then dividing and subdividing his discourse into heads, he first handled the objection, that this measure would be a relinquishing of the see of Rome. He spoke rather freely of Paul IV., who had recently denied the Queen's title, and had shown himself "a very austere, stern father unto us ever since his first entrance into Peter's chair;" but it was not a personal question with him, but by forsaking Rome they should fly from four things: — 1st, All General Councils: — 2dly, All Canonical Laws of the Church of Christ: — 3dly, The Judgment of all Christian Princes: — 4thly, and lastly, "we must forsake and fly from the unity of Christ's Church; and by leaping out of Peter's ship, hazard ourselves to be overwhelmed and drowned in the waters of schism, sects, and divisions." Each of these heads he discusses, with many quotations and illustrations from the Old and New Testament, and the Fathers; and concludes with the observation, that as we had received our doctrine, faith, and sacraments, entirely from the Church of Rome, — in forsaking that church as a malignant church, the inhabitants of this realm shall be forced to seek for another gospel of Christ, other doctrine, faith, and sacraments, than we hitherto have received. He next considers the meaning of the words "supreme Head of the Church of England;" if they meant temporal power, *that* her Highness had without statute; and if spiritual power, neither could parliament confer it, nor was her Highness capable of receiving it. How could they say to her, "Tibi dabimus claves

regni celorum ?" or " *Pasce, pasce, pasce !*" He then touches a very delicate topic — that however it might be with a King, at all events a Queen, by reason of her sex, was incapable of being the Head of the Church. " That her Highness, being a woman by birth and nature, is not qualified, by God's word, to feed the flock of Christ, appeareth most plainly, by St. Paul's saying, '*Taceant mulieres in ecclesiis; non enim permittatur eis loqui sed subditas esse.*' Again, says the same great apostle, '*Turpe est mulieri loqui in ecclesiis.*' '*Docere autem mulieri non permitto neque dominari in virum sed in silentio esse.*' To preach or minister the holy sacraments, a woman may not ; neither may she be supreme Head of the Church of Christ. Christ, ascending into heaven, gave the whole spiritual government of his Church to men. '*Ipse dedit ecclesiae sue quosdam apostolos, alios evangelistas, alios pastores et doctores in opus ministerii in edificationem corporis Christi.*' But a woman in the degrees of Christ's church is not called to be an apostle nor evangelist, nor to be a shepherd, neither a doctor or preacher." He thus concludes : " So much I have here said, Right Honourable, and my very good Lords, against this act of supremacy, for the discharge of my conscience, and for the love, dread, and fear that I chiefly owe unto God and my Sovereign Lady the Queen's Highness, and unto your Lordships all ; when otherwise, and without mature consideration of these premises, your Honours shall never be able to show your faces before your enemies in this matter ; being so rash an example and spectacle in Christ's church in this realm only to be found, and in none other. Thus humbly beseeching your good Honours to take in good part this rude and plain speech that I have used, of much good zeal and will, I shall now leave to trouble your Honours any longer."\*

After the second reading of the Bill, the expedient was resorted to of a conference between five Roman Catholic Bishops and three Doctors to argue against it, and eight reformed divines on the other side,— Heath, as Ex-chancellor, and Sir Nicholas Bacon, the new Lord Keeper, being appointed moderators. This conference ended in the commitment of two of the Bishops to the Tower, and binding over the other six Catholic disputants to appear before the Council. The Supremacy Bill, and another in favour of the new book of Common Prayer, passed the Lords by a small majority, but were supported almost unanimously in the House of Commons, to which, by Cecil's management, very few Catholics were returned.

Heath was now called upon to conform to the law, and himself to take the oath of supremacy. He pleaded conscience and the [JULY, 1558.] divine commandment as superior to all human law. He was therefore deprived of his archbishopric, and, the difficulty being surmounted of consecrating new Bishops, a successor was appointed to

\* Parl. Hist. 660. Ibid. 643. This speech shows, among other curious particulars, that the expletives " My Lords" and " Your Lordships," now so copiously introduced almost into every sentence by most speakers in the House of Lords, were then nearly unknown.

him. He retired to a small property of his own at Cobham, in Surrey, where he devoted the rest of his days to study and devotion. He was here compared to Abiathar, sent home by Solomon to his own field, and he was said to have found himself happier than he had ever been during his highest elevation. Queen Elizabeth herself, remembering how promptly he had recognised her title when he was Lord Chancellor, and believing that he afterwards acted from conscientious motives, was in the frequent habit of visiting him in his retreat, and, with a certain hankering after the old religion, she probably, in her heart, honoured him more than she did Archbishop Parker, whom she found living splendidly at Lambeth, with a lady whom she would neither call his "mistress" nor his "wife."

Heath survived till the year 1566, when he died deeply lamented by his friends, and with the character of a good, if not a great man.\*

Before proceeding with the Lord Keepers and the Lord Chancellors of Elizabeth, we ought to take a glance at the juridical history of the preceding reign. It was begun with an act of parliament, which we should have thought unnecessary,—to declare that a Queen Regnant has all the lawful prerogatives of the Crown, and is bound by the laws of former Kings.† Change of religion afterwards completely occupied the attention of the people, this change being still effected by acts of the legislature.

The law of treason was now brought back to the constitutional basis on which it had been placed by the celebrated statute of Edward III., and where religion was not concerned the Queen and her ministers showed considerable respect for the rights of the people.‡

\* A most beautiful panegyric is pronounced upon him by Hayward, an original historian, whose works have been lately published by the Camden Society. Speaking of the changes upon the accession of Elizabeth, he says, " Among thes Doctor Heath, Archbischopp of Yorke, was removed from being Lord Chancellour of England, a man of most eminent and generous simplicity, who esteemed anything privately unlawful which was not publickelye beneficiall and good. But as it is noe new thing for merchants to break, for saylers to be drowned, for soldiers to be slain, so is it not for men in authority to fall." — Hayward's *Annals of Elizabeth*, p. 13.

† Mary, sess. 3. c. 1.

‡ During this reign the lawyers devoted much of their attention to the regulation of their own dress and personal appearance. To check the grievance of "long beards," an order was issued by the Inner Temple "that no fellow of that house should wear his beard above three weeks growth on pain of forfeiting 20s." The Middle Temple enacted "that none of that society should wear great breeches in their hose made after the Dutch, Spanish, or Almain fashion, or lawn upon their caps, or cut doublets, under a penalty of 3s. 4d., and expulsion for the second offence." In 3 & 4 P. & M. it was ordained by all the four Inns of Court, "that none except knights and benchers should wear in their doublets or hose any light colours, save scarlet and crimson, nor wear any upper velvet cap, or any scarf or wings in their gowns, white jerkins, buskins, or velvet shoes, double cuffis in their shirts, feathers or ribbons in their caps, and that none should wear their study gowns in the city any farther than Fleet Bridge or Holborn Bridge, nor, while in Commons, wear Spanish cloaks, sword and buckler, or rapier, or gowns and hats, or gowns girded with a dagger on the back."

Great reproach was brought upon the two Chancellors, Gardiner and Heath, for the furious religious persecution which they prompted or sanctioned; but the former gained much popularity by his resistance to the Queen's matrimonial alliance with Philip of Spain, and the latter was respected for the general moderation of his character and his personal disinterestedness. They issued writs, under the Great Seal, for the election of representatives to the House of Commons to fourteen new places, (generally very small towns,) which had not before sent members to parliament,—imitating the conduct of Edward's Chancellors, who, to strengthen the reformation, had enfranchised no fewer than twenty-two similar boroughs. None of their judicial decisions have been handed down to us.

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### CHAPTER XLIII.

#### LIFE OF LORD KEEPER SIR NICHOLAS BACON.

We now come to the life of a man who held the Great Seal above twenty years, but whose selected motto being "*Mediocria firma*," was of very moderate ambition, aiming only at the due [A. D. 1558.] discharge of his judicial duties, and desirous to avoid mixing himself up with any concerns which were not connected with his office. Till we reach the Earl of Clarendon, we shall not again find the holder of the Great Seal Prime Minister,—and in the interval it will not be necessary for us to enter minutely into historical events guided by political chiefs under whom the individual whose lives we have to narrate acted only a subordinate part.

The business of the Court of Chancery had now so much increased, that to dispose of it satisfactorily required a Judge regularly trained to the profession of the law, and willing to devote to it all his energy and industry. The Statute of Wills, the Statute of Uses, the new modes of conveyancing introduced for avoiding transmutation of possession, the questions which arose respecting the property of the dissolved monasteries, and the great increase of commerce and wealth in the nation, brought such a number of important suits into the Court of Chancery, that the holder of the Great Seal could no longer satisfy the public by occasionally stealing a few hours from his political occupations to dispose of bills and petitions, and not only was his daily attendance demanded in Westminster Hall during term time, but it was necessary that he should sit, for a portion of each vacation, either at his own house, or in some convenient place appointed by him for clearing off his arrears.

Elizabeth having received the Great Seal from Lord Chancellor Heath on the second day of her reign, she kept it in her own possession rather more than a month before she determined how she should

dispose of it. At last, on the 22d of December, 1558, "between the hours of ten and eleven in the forenoon, at the Queen's Royal Palace of Somerset House, in the Strand, the Queen, taking the Great Seal from its white leather bag and red velvet purse before the Lord Treasurer and many others, delivered it to Sir NICHOLAS BACON, with the title of Lord Keeper, and all the powers belonging to a Lord Chancellor; and he, gratefully receiving it from her Majesty, having sealed with it a summons to the Convocation, returned it into its leatheren bag and velvet purse and carried it off with him, to be held during the good pleasure of her Majesty."\*

This new functionary had not passed through any dangers, or difficulties, or interesting vicissitudes before his advancement; but, without being once in prison or in exile, or engaged in foreign embassies,—much less having, like some of his predecessors, led armies into the field,—he had risen in the common-place track of the legal profession as dully as a prosperous lawyer of the eighteenth or nineteenth century, who going through Eton or Westminster, Oxford or Cambridge, and a special pleader's or an equity draughtsman's office, is called to the bar, pleases the attorneys, gets a silk gown, and is brought into parliament by a great nobleman to whom he is auditor, there to remain quietly till for some party convenience he is farther promoted.

Nicholas Bacon was of a respectable gentleman's family long seated in the county of Suffolk. He was the second son of Robert Bacon, of Drinkston, Esquire, and was born at Chislehurst, in Kent, in the year 1510. He received his education under his father's roof till he was sent to Corpus Christi College, Cambridge. Having taken his degree, he travelled for some time in France.

On his return he studied the law diligently at Gray's Inn, and without brilliant talents, by industry and perseverance he gained considerable practice at the bar. When the dissolution of the monasteries took place, he was appointed by the Henry VIII. to the lucrative post of Solicitor to the Court of Augmentations, a board established for [A. D. 1537.] managing the church property which came to the Crown,—and like most others concerned in the management of it, he contrived to have a grant of a portion of it for his own use.†

Along with all the other grantees of church property he became a favourite of the Reformation, but he took care to give no offence by going openly beyond the limits of the departure from Rome which the law permitted. He now presented to the King a splendid plan for the endowment from the spoils of the monasteries of a great seminary in London, after a model of a University, for the study of the

\* See all this and much more of the ceremony related, Rot. Cl. 1 Eliz.

† He got the manors of Bottesdale, of Ellingham, and of Redgrave, where he afterwards received Queen Elizabeth.

law, and for the training of ambassadors and statesmen.\* It is much to be regretted that, owing to the rapacity of the courtiers, this effort was abortive, as down to our own time, London remained the only metropolis in Europe (except Constantinople) without a University, and English lawyers, though very acute practitioners, have rather been deficient in an enlarged knowledge of jurisprudence.

Nicholas Bacon was, in this reign, further promoted by being appointed Attorney to the Court of Wards, a most important situation during the subsistence of military tenures, [A. D. 1546.] and affording ample scope for corruption and oppression. But he conducted himself in it with integrity as well as diligence, and he was allowed to retain it both by Edward VI. and Queen Mary. He was a brother-in-law of Sir William Cecil, afterwards the celebrated Burghley, now rising into eminence, and already known for his prudence and craft; but although in close intimacy with him, he was not sufficiently eminent to share with him in the plot for bringing in Lady Jane Grey,† and he still remained in his subordinate situation when Cecil had gained the confidence of Mary, and was himself in high office.

During her reign both brothers acquiesced in the reconciliation with Rome, and quietly conformed to the reigning religion, although they had actively supported the Reformation under Edward. A satirical writer, referring to this period of Bacon's life, bitterly says, "His Lordship could neither by the greatness of his beads, creeping to the cross, nor exterior show of devotion before the high altar, find his entrance into high dignity in Queen Mary's time."‡

Notwithstanding the seeming warmth of the Roman Catholic zeal he now displayed, Queen Mary had some suspicion of his sincerity, and forbade him to go beyond sea, because "he had a great wit of action," and she was afraid he might enter into the plots that were formed against her among the Protestants of Germany. He owed his elevation to his brother-in-law. Cecil, while Secretary to Mary, had a private understanding with Elizabeth, who looked up to him for securing her succession, and he had been the first to repair to Hatfield

\* Besides the study of the common and civil law, the objects of the projected institution were to cultivate the knowledge of Latin and French, and in those languages to write and debate on all questions of public policy; to form historical collections, and publish new treatises relating to domestic institutions and foreign diplomacy; and the students were finally to perfect their knowledge of political science as *attachés*, travelling in the suites of the King's ambassadors on the Continent.

† It has always seemed to me a strong proof that Northumberland's scheme was by no means so foolish and desperate as has been generally supposed, — that it was supported by a man of the sagacity of Cecil.

‡ It is very curious that his son in defending him against this libel does not at all deny his ostentatious profession of the Roman Catholic religion to please Queen Mary, but contends that he was a great favourite with her "in regard of his constant standing for her title," and that he might have had great promotion under her if he had been so minded. Lord Bacon's works, ed. 1819, vol. iii. p. 96.

to announce to her that she was Queen. She employed him to compose the speech she was to deliver at her first Council, and he became her sole adviser in the formation of her ministry.

For the Great Seal, he recommended his near connection Nicholas Bacon, wishing to favour him, and considering him competent to the duties of the office, without any ambitious or intriguing turn which might render him dangerous as a rival. The Queen hesitated for some time, as the office of Chancellor or Lord Keeper had hitherto generally been given either to a dignified prelate, or some layman who had gained distinction by civil service; and Bacon was only known in his own profession as a plodding lawyer, and for having industriously done the duties of attorney to the Court of Augmentations and the Court of Wards. She saw the necessity for the appointment of a lawyer, and the accounts she received of the respectable and useful qualities of Bacon induced her to yield; but sparing of honours from the commencement of her reign, she would only give him the title of "Lord Keeper," and would only knight him instead of raising him to the peerage. He was perfectly contented—often repeating his motto, "*Mediocria firma.*" He was sworn of the Privy Council, however, and admitted to the public deliberations of this board.

For some time he used the Great Seal of Philip and Mary, but on the 26th of January, 1559, this seal was broken by the Queen's commands, and she delivered to him another, with her own [A. D. 1559.] name and insignia.\* From the first he gained the confidence of the youthful Queen, who, says Camden, "relied upon him as the very oracle of the law."

Parliament met on the 25th of January†, when the Queen being seated on the throne, the Lord Keeper opened it with a speech beginning thus, "My Lords and Masters all, the Queen's most Excellent Majesty having summoned hither her high Court of Parliament, hath commanded me to open and declare the chief causes and considerations that moved her thereunto." This discourse is very long and tedious. He compares Elizabeth to the good King Hezekiah and the

\* See a very circumstantial account of this ceremony in the Cl. Roll, 1 Eliz. which after narrating the delivery of the old Seal to the Queen in her private chamber at Westminster, her order that it should be broken, the execution of this order in an outer room, the production of another Seal, "imagine armis et titulis honoris Domine Regine tantumdo insculptum," the delivery of this to Sir Nicholas as Lord Keeper, thus concludes, "Ipseque prdm nov. Sigill. de Dna Regna adtunct et ibidem in presencia eordm nobilium viorm gratulentr recipiens in exteriorem cameram prdcam recessit, ac illud in quandam perulam de corio poni et sigillo suo pprio muniri et sigillari fecit, ac sic munitum et sigillatum in quandam saccum velutii rubei insigniis regiis decoratum posuit illudque penes se retinuit et retinet."

† Parliament was called under writs dated the 1st of December, and it would appear that between her accession and the 22d of December, when the Queen delivered the Great Seal to Bacon, she affixed it to all instruments which required it with her own hand.

noble Queen Hester, and extols her desire for the amendment of the laws and the promotion of true religion. But the only part worth transcribing is his advice as to the manner in which the debates were to be conducted in both Houses. “ You will also clearly forbear, and as a great enemy to good council fly from all manner of contentious reasonings and disputations; and all sophistical, captious, and frivolous arguments and quiddities, meeter for ostentation of wit than consultation of weighty matters; comelier for scholars than councillors, and more beseeming the schools than parliament houses.”\*

The Lord Keeper is said to have now given very discreet advice respecting the Queen’s title. On the accession of Mary, an act was passed declaring void the divorce between Henry and Catherine of Aragon, which virtually bastardised Elizabeth, although the statute of 36 Henry VIII., putting her into the succession to the Crown, remained unrepealed. He laid down for law, that the descent of the Crown of itself removed all disabilities; and she was contented with an act to acknowledge her title, and without reversing the attainder of her mother, to make her inheritable *ex parte materna*.

Bacon was now called upon to act in a capacity that would seem strange to a Lord Chancellor or Lord Keeper of [MARCH, 1559.] our time — as a moderator in the grand public disputation held by the Queen’s command, between the champions of the two religions, his predecessor, Ex-chancellor Heath, acting for the Catholics, being his colleague.

There is much reason to fear that the Lord Keeper, become an avowed and zealous Protestant, was by no means impartial; for entirely superseding the other moderator, and taking upon himself the management of the conference, he insisted, each morning, that the Catholic disputants should begin, and he would not allow them to reply upon the Protestants. At last the five Bishops and three Doctors of Laws on the Catholic side, declared that they would argue no longer, and that they would withdraw. The Lord Keeper, highly incensed, put the question to them successively, “ whether they would not stay?” All except one insisted on departing, and thereupon he dismissed them with these ominous words, “ For that ye would not that we should hear you, perhaps you may shortly hear of us.” Accordingly, their abrupt departure being declared to be a

\* It must be remembered that such an oration was not like a modern Queen’s speech delivered by Lords Commissioners, — which is supposed to be the language of her Majesty, advised by her cabinet, — but was delivered as the extempore composition of the orator. On this occasion the Lord Keeper makes many apologies for his own imperfections, and regrets his “ want of ability to do it in such sort as was beseeming her Majesty’s honour, and as the great weightiness and worthiness of the matter did require.”

† This was a very delicate question; and from Elizabeth not wishing to stir it, there is reason to fear that the proofs of Anne’s guilt were formidable. It was remarked that although she was constantly boasting of being the daughter of Henry VIII., she hardly ever made any allusion to her mother.

contempt of the Queen's authority, the Bishops of Winchester and Lincoln were committed to prison, and the rest were bound over to appear before the Council, and not to go beyond the cities of London and Westminster without leave.

As a Judge the Lord Keeper gave the highest satisfaction, and it was universally acknowledged, that since the time of Sir Thomas More, justice had never been so well administered in the Court of Chancery. Thoroughly imbued with the common law, he soon became familiar with the comparatively simple system of equitable jurisprudence then established. He was slow to enlarge his own jurisdiction, interfering very cautiously with common-law actions, — always respecting the principles of the common law, and consulting the common-law Judges upon any question of difficulty which arose before him. On the bench he was patient and courteous, and it was remarked that the parties against whom he decided, if not convinced by his reasons, never doubted his honesty, and admitted that they had had a fair hearing. More fortunate in this respect than his greater son, he was never once accused or suspected of bribery or corruption, either by his contemporaries or by posterity.\*

Soon after he was in office, doubts were raised respecting his judicial authority. He had been appointed by the Seal having been merely delivered to him as Keeper ; and some said that, though a Chancellor might be created by "tradition" of the emblem of his jurisdiction, the only regular mode of making a Lord Keeper was by [a. d. 1559.] patent. On the 14th of April a patent was passed by [a. d. 1563.] the Queen's warrant, giving him the same powers in all respects as if he were Lord Chancellor, and ratifying all that he had done as Lord Keeper. Still difficulties arose in his own mind, or cavils were made by others, respecting the extent of his powers, the Custos Sigilli having been originally only a deputy of the Lord Chancellor ; and, finally, an act of parliament was passed, declaring that "the common law of this realm is, and

\* I find an order of his in the Registrar's Book, which, though pronounced somewhat irregularly, shows his great good nature.

" 17 Nov. 1577.

" Between                    **LAWRENCE DANYELL**, Plaintiff,  
                                  **RICHARD JACKSON**, Defendant.

" Whereas the matter in variance between the said parties was the 5th of this month dismissed for such causes as are in the order expressed, and the Plaintiff adjudged thereby to pay to the Defendant 30*s* costs : *Forasmuch as the Plaintiff, being a very poor boy, in very simple clothes and bare-legged, and under the age of twelve years, came this present day into this Court and desired that he might be discharged of the said costs, it is therefore, in consideration as well of his age as also of his poverty and simplicity, ordered that (upon an affidavit made that he is the same Lawrence Danyell named Plaintiff herein) he be discharged of the said 30*s*. costs, and no process to issue out against him for the same.*" This is a rare instance of the advantage of a suitor pleading his own cause. — There is another entry showing that a poor man having followed him on foot from London to Windsor, he there patiently examined the case, and referred him to the Court of Requests. *Rayley v. Dyon*, Reg. Lib. A. 5 & 6 Eliz. 1563, f. 471.

always was, and ought to be taken, that the Keeper of the Great Seal of England for the time being hath always had, used, and executed, and of right ought to have, use, and execute, and from henceforth may have, perceive, take, use, and execute, as of right belonging to the office of the Keeper of the Great Seal of England for the time being, the same and the like place, authority, pre-eminence, jurisdiction, execution of laws, and all other customs, commodities, and advantages as the Lord Chancellor of England for the time being lawfully used, had, and ought to have, use, and execute, as of right belonging to the office of the Lord Chancellor of England for the time being, to all intents, constructions, and purposes as if the same Keeper of the Great Seal for the time being were Lord Chancellor of England.\*

The Protestant faith being established, and the government settled in the session of parliament held soon after the Queen's accession, the Lord Keeper was not at all diverted by politics from the regular despatch of judicial business till the beginning of the year 1563, when the Queen's exchequer being empty from the assistance she rendered to the French Huguenots, she found herself reluctantly obliged to summon a new parliament for the purpose of obtaining a supply.

On the day on which the writs were returnable, the Queen being indisposed, the Lord Keeper, by virtue of a commission, postponed the meeting till the following day. [JAN. 11, 1563.] He then joined a grand procession from Whitehall to Westminster Abbey, the Queen riding on horseback, clad in crimson velvet, with the crown on her head,—twenty-two Bishops riding behind her in scarlet, with hood of minever down their backs,—followed by all the temporal Lords in their parliamentary robes. After service and sermon they proceeded to the parliament chamber; and the Queen being seated on the throne, the Commons attending at the bar, the Lord Keeper stationed on her right hand, a little beside the cloth of estate, and somewhat back and lower than the throne, by her Majesty's orders delivered a speech, which thus began: "My Lords, and others of this honourable assembly, you shall understand that my most dread and sovereign Lady the Queen's Majesty here present hath commanded me to declare the occasion of this assembly, which I am not able (but unmeet) to do as it ought to be done among such a noble, wise, and discreet company. Howbeit, knowing the experience of her Majesty bearing with such as do their good wills, and your Honours' patience in bearing with me in the like afore this time, it

\* 5 Eliz. c. 18. This assertion of former usage is correct, where there had been a Lord Keeper without a Lord Chancellor; but the framer of the statute was probably not aware of what we, from the examination of records, now know, that in early ages there were frequently a Chancellor and Keeper of the Great Seal at the same time,—when the latter could only act by the special directions of the former. There could not after 5 Eliz. have been a Chancellor and Keeper at the same time, but all occasion for such an arrangement is now obviated by the multiplication of Vice-chancellors.

encourageth me the better herein.” It must be confessed that he put the patience of her Majesty and their Honours to a considerable trial; for his speech was very prolix and pointless, and they must have been greatly relieved when he at last said — “ And for that the Nether House, being so many, of necessity must have one to be a mouth-aider or instructor unto them, for the opening of matters, which is called the Speaker; therefore, go and assemble yourselves together, and elect one, — a discreet, wise, and learned man; and on Friday next the Queen’s Majesty appointeth to repair hither again for to receive the presentment of him accordingly.”\*

On that day the Queen again attended, and the Speaker-elect then exceeded the former length and dulness of the Lord Keeper, who, on this occasion, contented himself with disallowing the disqualification pleaded, and conceding to the Commons all their ancient privileges.†

This was considered a very laborious session, and did not end till the 10th of April. On that day the Speaker touched upon the several bills which they had passed, and after comparing Elizabeth to three most virtuous British Queens (not very generally known), — PALESTINA, who reigned here before the deluge; CERES, who made laws for evil-doers some time after that event; and MARCA, wife of Bathilicus, mother to King Stelicus, — in the name of the Commons strongly exhorted her to marry, so that the nation might hope to have her issue to reign over them; and if she were resolutely determined to die a maid, earnestly entreated that she would name her successor.

The Queen thereupon called the Lord Keeper unto her, and commanded him, in her name, to answer the Speaker. Sir Nicholas accordingly, *more suo*, went over all Mr. Speaker’s topics till he came to the last; when it appeared that she had considered this rather too delicate a one for him to be trusted with. He thus proceeded: “ And touching your request aforesome made to her for her marriage and succession, because it is of such importance whereby I doubted my opening thereof, I therefore desired her Majesty that her meaning might be written, which she hath done, and delivered to me.” He then read the paper. “ For my marriage, if I had let slip too much time, or if my strength had been decayed, you might the better have spoke therein; or if any think I never meant to try that life, they be deceived; but if I may hereafter bend my mind thereunto, the rather for fulfilling your request, I shall be therewith very well content. As to the succession after me, the greatness thereof maketh me to say and pray that I may linger here in this vale of misery for your comfort, wherein I have witness of my study and travail for your surety; and I cannot with ‘ Nunc dimittis’ end my life without I see some foundation of your surety after my gravestone.”

The royal assent was then given to the acts of the session, and the Lord Keeper prorogued the parliament.†

Whether the Queen ever had any serious thoughts of marriage is

\* 1 Parl. Hist. 664.

† Ibid. 685.

† Ibid. 703.

uncertain ; but she had successively flattered the hopes of Philip of Spain, Charles of Austria, Eric of Sweden, Adolphus of Holstein, the Earl of Arran, and her own subject, Robert Dudley, Earl of Leicester. The nation became most seriously and justly alarmed about the succession. She had been dangerously ill, and if she had died a civil war seemed inevitable. The heir by blood was the Queen of Scots ; but she was a Catholic, and set aside by the will of Henry VIII., or at least postponed to the House of Suffolk descended from his younger sister. There was some doubt who was the legitimate heir of that house, and there was another claimant in the Countess of Lennox, descended from Margaret, the eldest sister of Henry by a second marriage.

Another attempt was made, in which the Lord Keeper took a more active part than was consistent with his usual caution, to induce the Queen either to marry, or to allow that her successor should be declared. [Nov. 5, 1565.] After a conference between the two Houses, the Lords resolved upon an address to her Majesty, to be presented by Lord Keeper Bacon, and the address bears strong marks of having been prepared by the Lord Keeper himself.

It is said to have been delivered by him to her Majesty in parliament, and she seems to have come down to the House of Lords to receive it on the throne. It is very long, after the Lord Keeper's manner ; but a few extracts of it may be amusing. After a tiresome preface, he says, "The Lords petition, 1st, that it would please your Majesty to dispose yourself to marry when it shall please you, with whom it shall please you, and as soon as it shall please you : 2dly, that some limitation may be made how the imperial Crown of this realm may remain if God calls your Highness without heir of your body (which our Lord defend), so as these Lords and Nobles, and other your subjects then living, may sufficiently understand to whom they owe their allegiance." He then handles each head separately with many subdivisions, enumerating no fewer than ten reasons why her Highness should take husband. Lest she should have made a vow of perpetual celibacy, he tells her it may be laudably broken, "for it appeareth by histories that in times past persons inheriting to Crowns being votaries and religious, to avoid such dangers as might have happened for want succession to kingdoms, have left their vows and monasteries, and taken themselves to marriage, — as Constantia, a nun, heir to the kingdom of Sicily, married after fifty years of age to Henry VI. Emperor of that name, and had issue, Frederick II. Likewise Peter of Aragon, being a monk, married, the better to establish and pacify that kingdom." He next tries to inflame her by the desire of having children. "Antoninus Pius is much commended, for that, not two days before his death, he said to his Council, *Læto animo morior quoniam filium vobis relinquo.* Pyrrhus is of all godly men detested for saying he *would leave his realm to him that had the sharpest sword.* What, but want of a successor known, made an end of so great an empire as Alexander the Great did leave at his death ? — God, your

Highness knoweth, by the course of scriptures, hath declared succession, and having children, to be one of the principal benedictions in this life: and, on the contrary, he hath pronounced contrarywise; and therefore Abraham prayed to God for issue, fearing that Eliazar, his steward, should have been his heir, and had promise that kings should proceed of his body. Hannah, the mother of Samuel, prayed to God with tears for issue; and Elizabeth (whose name your Majesty beareth), mother to John the Baptist, was joyous when God had blessed her with fruit, accounting herself thereby to be delivered from reproach."

Bacon's harangue being at last brought to a close, the Queen returned a short answer, which has all the appearance of being unpremeditated. She was much nettled at some of the illustrations which she thought referred to Mary, Queen of Scots, then lately delivered of a hopeful son. "I thought it had been so desired, as none other trees' blossom should have been minded, or ever any hope of any fruit had been denied you. And yet by the way, if any here doubt that I am by vow or determination bent never to trade in that kind of life, put out that kind of heresy, for your belief is therein awry. For though I can think it best for a private woman, yet I do strive with myself not to think it meet for a Prince, and if I can bend my liking to your need I will not resist such a mind." After a few evasive generalities she withdrew, and the Lords declared themselves contented.\*

The subject was renewed at the close of the session, when the [JAN. 2, 1567.] Queen having come in her barge from Whitehall, and being placed on the throne, the Lord Keeper standing by the rail a little behind her on the right, Onslow, the first Speaker of that name, appearing at the bar, was marched through the House of Lords, making his obeisances, to the rail near the Lord Keeper, and delivered a tremendously long address to her Majesty, which he thus concluded:—"God grant us that as your Majesty hath defended the faith of Abraham, you may have the like desire of issue; and for that purpose that you would shortly embrace the holy state of matrimony, when and with whom God shall appoint and best like your Majesty; and so the issue of your own body by your example rule over our posterity."

The Lord Keeper returned an answer, but in such a very unsatisfactory manner, that the Queen stopped him and herself took the word, saying that, "as a periphrasis, she had a few words farther to add, notwithstanding she had not been used to speak, nor loved to do it in such open assemblies." She then gave them a good scolding. "I have in this assembly found so much dissimulation where I always professed plainness, that I marvel thereat; yea, two faces under one hood and the body rotten, being covered with two vizors, SUCCESSION and LIBERTY. But, alas, they began to pierce the vessel before the wine was fined. Do you think I am unmindful of your surety by suc-

cession, wherein is all my care considering I know myself to be mortal ? No, I warrant you. Or that I went about to break your liberties ? No, it was never my meaning — but to stay you before you fell into the ditch. All things have their time. Although perhaps after me you may have one better learned or wiser, yet none more careful over you, and however that be, beware you prove that Prince's patience as you have mine.”\*

She was in such dudgeon that she ordered the Lord Keeper instantly to dissolve the parliament, which he did, and no other was called for a period of five years.

But in the mean time the nation was in a state of great excitement on the question of the succession, and various pamphlets were published in support of the rights of the different claimants. Among these was one which professed to be indited by “John Hales, Clerk of the Hanaper in the Court of Chancery,” — strongly espousing the cause of the House of Suffolk, which rested on the will of Henry VIII., alleged to be duly executed under the authority of an act of parliament, — violently disparaging the Stuart line, whose pretensions were denounced as inconsistent with the religion and independence of England, — and calling loudly for a parliamentary declaration of the right of the true heir. On the complaint of the Scottish ambassador, Hales was committed to prison; but upon his examination great was the astonishment—deep the indignation of the Queen, when the truth came out that the real author of this pamphlet, pretending to be the production of a subordinate officer in the Court of Chancery, was no less a person than the chief of the Court himself, whose religious zeal, fortified by the threats of the Catholics that they would revoke all the grants of Church property, for once had overcome his prudence.

Elizabeth, although restrained by jealousy of a rival Queen she had concealed her real sentiments, had secretly determined that the Stuarts should succeed, and she had an extreme antipathy to the Hertford blood. The Lord Keeper would at once have been deprived of the Great Seal, and sent to the Tower, had there not been a very serious difficulty about appointing a successor to him; but his name was immediately struck out of the list of Privy Councillors, and he was strictly enjoined to meddle with no business whatever except that of the Court of Chancery. It seems strange to us that the first Judge of the land should be so far disgraced, and still permitted to retain his office. Leicester, whose aspiring project to share the throne he had thwarted, attempted to incense the Queen further against him; but Cecil, who was suspected of sharing his sentiments on the succession question, and even of having contributed to the obnoxious pamphlet, steadily supported him, and in little more than a twelvemonth he was again sworn of the Privy Council, and entirely restored to Elizabeth's favour.

The next affair of importance, in which Lord Keeper Bacon was

[A. D. 1568.] engaged, was the inquiry into the conduct of the Queen of Scots, respecting the murder of her husband. The unhappy Mary, after the battle of Langside, having sought refuge in England from her rebellious subjects, was now a prisoner in Bolton Castle, under the care of Lord Scrope: and Elizabeth, with a view to make herself arbitress of the affairs of Scotland, having refused to see her till she had proved her innocence of the great crime imputed to her, both parties had submitted themselves to the judgment of the English Queen. A commission passed under the Great Seal, appointing the Lord Keeper and others to act for Elizabeth in this investigation. The conferences took place at Hampton Court,—Murray, the Regent of Scotland, assisted by Buchanan, the famous poet and historian, appearing as accuser, and Mary being represented by Lord Herries, and Leesley, Bishop of Ross.

Bacon is said to have conducted himself, on this occasion, with dignity and propriety. He gained the friendship of the Bishop of Ross, who ever after spoke of him in terms of respect and esteem,—and of Buchanan, who recorded his high admiration of him in a Latin epitaph, inscribed on his tomb in St. Paul's Cathedral. But the casket being produced containing Mary's letters and sonnets, addressed to Bothwell, which, if genuine, clearly established her guilt, and proof being offered that they were in her handwriting, by comparing them with letters addressed by her to Elizabeth, her commissioners refused to give in any answer, and the conferences were broken off, without any judgment being pronounced,—Mary still protesting her innocence, and desiring to be permitted to justify herself before Elizabeth in person.

In about two years after, the negotiations were renewed at York House, the residence of the Lord Keeper. The English commissioners now demanded, as the price of Mary's liberty, that some of the chief nobility, and several of the principal fortresses of Scotland, should be placed in Elizabeth's hands. The Pride of the Scotsmen was much wounded by this proposal, which they denounced as insulting. But thereupon the Lord Keeper broke up the conference, saying, "All Scotland—your prince, nobles, and castles, are too little to secure the flourishing kingdom of England."\*

The next occasion of the Lord Keeper appearing before the public [A. D. 1570.] in his political capacity, was at the meeting of parliament, on the 2d of April, 1571. On that day the Queen went to Westminster Abbey, for the first time in a coach,—which was drawn by two palfreys, covered with crimson velvet, embossed, and embroidered very richly; but this was the only carriage in the procession, the Lord Keeper and the Lords spiritual and temporal, attending her on horseback.

\* This speech may well account for the great enmity afterwards entertained against him in Scotland, and the libels published against him at Edinburgh, which, being imported into England, the Queen by proclamation ordered to be burnt.

Her Majesty being seated on the throne, and the Commons attending, after a few complimentary words from her own lips, “looking on the right side of her, towards Sir Nicholas Bacon, Knight, Lord Keeper, standing a little beside the cloth of estate, and somewhat back, and lower from the same, she willed him to show the cause of the parliament.” His most eloquent flight was in celebrating the Queen’s economy. “What need I to remember unto you how the gorgeous, sumptuous, superfluous buildings of time past be for the realm’s good, by her Majesty in this time turned into necessary buildings and upholdings? — the chargeable, glittering, glorious triumphs, into delectable pastimes and shows? — ambassades of charge into such as be void of excess, and yet honourable and comely? These imperfections have been commonly Princes’ peculiars, especially young. One from these was anointed *rara avis*, &c., and yet, (God be thanked!) a phoenix, a blessed bird of this kind God hath blessed us with.” He concluded, by truly supposing they were all heartily sick of his tediousness. “Here I make an end, doubting that I have tarried you longer than I promised, or meant, or perchance needed.”\*

He delivered another speech a few days after, approving of the choice of Speaker; in which he told the Commons, by the Queen’s command, that “they should do well to meddle with no matters of state, but such as should be propounded unto them.”

This injunction, however, was by no means universally obeyed; and several members brought forward motions about the abuse of the prerogative in granting monopolies, and the necessity for settling the succession to the Crown. They were called before the Council, when the Lord Keeper reprimanded them for their temerity; and one refractory member was committed to prison.

At the close of the session the Lord Keeper highly extolled the discretion and orderly proceedings of the Upper [MAY 29, 1571.] House, which redounded much to their honour and much to the comfort and consolation of her Majesty; but he inveighed heavily against the popular party in the Commons “for their audacious, arrogant, and presumptuous folly, thus by superfluous speech spending much time in meddling with matters neither pertaining to them nor within the capacity of their understanding.”† The importance of the Commons was now rapidly rising, and that of the Lords sinking in the same proportion.

There was a session of parliament the following year, in which some proceedings disagreeable to the Queen were taken by both Houses respecting the succession to the Crown, and to which the Lord Keeper put a stop by an abrupt prorogation.‡

The last notice we have of his appearance in public was at the close of the session of parliament in the beginning of the year 1576, when

\* 1 Parl. Hist. 724. In the course of his speech he cites the maxim, “*Frustra fit per pleura quod fieri potest per pauciora*,” which he never much regarded, for he is a very verbose and vapid orator.

† 1 Parl. Hist. 766.

‡ Ibid. 772.

a scene took place which must have caused a good deal of internal tittering among the by-standers, if all due external gravity was preserved in the royal presence. Her Majesty had reached an age at which according to the common course of nature she could hardly be expected to bear children: yet the Speaker of the House of Commons (perhaps to flatter her now—as she had formerly in her younger days been annoyed by such requests), proceeded humbly to petition her Majesty to make the kingdom further happy in her marriage, that so they might hope for a continual succession of those benefits in her posterity.”

The Lord Keeper, after conferring with the Queen, made answer, — “In this her Majesty conceiveth the abundance of your inward affection grounded upon her good governance of you to be so great, that it doth not only content you to have her Majesty reign and govern over you, but also you do desire that some proceeding from her Majesty’s body might by a perpetual succession reign over your posterity also—a matter greatly to move her Majesty (she saith) to incline to this your suit. Besides, her highness is not unmindful of all the benefits that will grow to the realm by such a marriage, neither doth she forget any perils that are like to grow for want thereof. All which matters considered, her Majesty willed me to say that albeit of her own natural disposition she is not disposed or inclined to marriage, neither could she ever marry were she a private person, yet for your sakes and benefit of the realm, she is contented to dispose and incline herself to the satisfaction of your humble petition, so that all things convenient may concur that be meet for such a marriage, whereof there be very many, some touching the state of her most royal person, some touching the person of him whom God shall join; and some touching the state of the whole realm; these things concurring and considered, her Majesty hath assented.”\*

Parliament was not again called during the life of Sir Nicholas Bacon. He continued in a quiet manner to have considerable influence in public affairs. From the time of his restoration to the Council he was its legal adviser, and Cecil, now Lord Burghley, had been much influenced by him respecting the measures proposed to the legislature on the part of the government. Not being a Peer, he could not take a share in the Lords’ debates, but presiding as Speaker on the Woolsack, he exercised a considerable influence on their deliberations. He was supposed to have framed the acts aimed at the Queen of Scots and her supporters. Although death saved him from the disgrace of being directly accessory to the death of this unfortunate Princess, he is chargeable with having strongly supported the policy which finally led to that catastrophe, by urging the continuation of her captivity and rigorous treatment,— by assisting in the efforts to blacken her reputation,— by resisting the recognition of her right and that of her son to succeed to the crown, and by contending, that though a captive sovereign, she ought to be treated as a rebellious subject.

Being a Commoner, he could neither act as Lord Steward, nor sit upon the trial of the Duke of Norfolk, who was the first who suffered for favouring Mary's cause; but as he put the Great [A. D. 1572.] Seal to the commission under which this mockery of justice was exhibited, and must have superintended and directed the whole proceeding, he is to be considered answerable for such atrocities as depriving the noble prisoner of the use of books, and debarring him from all communication with his friends from the time of his commitment to the Tower,—giving him notice of trial only the night before his arraignment,—keeping him in ignorance of the charges against him till he heard the indictment read in court,—and resting the case for the Crown on the confessions of witnesses whom the Council had ordered “to be put to the rack that they might find the taste thereof.”\* The religious zeal of the Lord Keeper and the Protestant ministers was now greatly exasperated, and they were eager by any expedients to crush the believers in these doctrines which they themselves had openly professed in the preceding reign.

Sir Nicholas, from his family connection with Burghley, continued opposed to the party of Robert Dudley, Earl of Leicester. Through the ill offices of this favourite he had been expelled from the Privy Council, and a great coldness ever after subsisted between them.

Although the Queen's reputation never suffered from her attentions to this old fat Lord Keeper, as it did when she danced and flirted with his young and handsome successor, Sir Christopher Hatton, she was latterly very kind to him, and visited him in her progresses at Redgrave and at Gorhambury. It was on one of these occasions that she remarked to him that his house was too small for him, and he answered, “Not so, Madam, your Highness has made me too great for my house.” During another visit, Frank with his curly locks was introduced to her, and the lad showing from his earliest years the extraordinary genius which afterwards immortalised him, she, captivated by his manners and his answers to her questions, called him “her young Lord Keeper.”

Old Sir Nicholas had grown exceedingly corpulent, insomuch that when he had walked the short distance from the Court of Chancery to the Star Chamber, it was some time after he had taken his place on the Bench there before he had sufficiently recovered his breath to go on with the business,—and the Bar, before moving, waited for a signal which he gave them by thrice striking the ground with his staff.

But he had enjoyed remarkably good health, and he might still have done the duties of his office satisfactorily for years to come, had it not happened that in the beginning of February, 1579, while under the operation of having his hair and his beard trimmed, he fell asleep. The awe-struck barber desisted from his task, and remained silent. The contemporary accounts state, that, from “the sultriness of the

\* 1 Stat. Tr. 958. Ellis, ii. 261.

weather, the windows of the room were open," which, considering the season of the year, I do not exactly understand. However this may be, the Lord Keeper continued long asleep in a current of air, and when he awoke he found himself chilled and very much disordered. To the question, "Why did you suffer me to sleep thus exposed?" the answer was, — "I durst not disturb you." Sir Nicholas [FEB. 17, 1549.] replied, — "By your civility I lose my life." He was immediately carried to his bed, and in a few days he expired.

He was buried in St. Paul's Cathedral, where a monument to his memory stood till the great fire of London, — with the following epitaph from the pen of his friend, George Buchanan: —

" Hic Nicolaum ne Baconum conditum  
 Existima illum, tam diu Britannici  
 Regni secundum columen, exitium malis  
 Bonis asylum ; cæca quem non extulit  
 Ad hunc honorem sors, sed æquitas, fides,  
 Doctrina, pietas, unica et prudentia,  
 Neu morte raptum crede, quia unica brevi  
 Vita perennes emeruit duas ; agit  
 Vitam secundam calites inter animus ;  
 Fama implet orbem vita que illi tertia est.  
 Hac positum in ara est corpus olim animi domus,  
 Ara dictata sempiternæ memorie."

The character of Lord Keeper Bacon, by Camden, is very flattering, notwithstanding the sneer at his obesity.\* — "Vir præpinguis, ingenio acerrimo, singulare prudentia, summa eloquentia, tenaci memoria et sacris conciliis alterum columen."

His son bears the most honourable testimony to his sincerity of mind and straightforward conduct—abstaining from ascribing to him brilliant qualities which he knew did not belong to him: — "He was a plain man, direct and constant, without all finesse and doubleness, and one that was of a mind that a man in his private proceedings and in the proceedings of state, should rest on the soundness and strength of his own courses, and not upon practice to circumvent others, according to the sentence of Solomon, *Vir prudens advertit ad gressus suos; stultus autem divertit ad dolos*, insomuch that the Bishop of Ross, a subtle and observing man, said of him that he could fasten no words upon him, and that it was impossible to come within him, because he offered no play; and the Queen Mother of France, a very politic Princess, said of him that he should have been of the Council of Spain, because he despised the occurrents and rested on the first plot."†

\* The Lord Keeper's figure seems to have been the subject of much jesting at Court. The Queen herself, alluding to it, said, "Sir Nicholas's soul lodges well," whereat, no doubt, the lords with white staves and the ladies in waiting laughed consumedly. Fuller describes him as a man "cui sicut ingenium subtile in corpore crasso."

† *Observations on a Libel.* Bac. Works, Ed. 1819, vol. iii. p. 69.

The most valuable tribute to his memory is from the faithful Hayward, who describes him as “a man of greate diligence and ability in his place, whose goodnesse preserved his greatnesse from suspicion, envye, and hate.”\*

Amidst the drudgery of business and the cares of state, he kept up his classical learning, and was a patron of learned men, who repaid him for his condescension by their flattery. “I have come,” said one of them, “to the Lord Keeper, and found him sitting in his gallery alone with the works of Quintilian before him. Indeed he was a most eloquent man, of rare wisdom and learning as ever I knew England to breed, and one that joyed as much in learned men and good wits — from whose lips I have seen to proceed more grace and natural eloquence than from all the orators of Oxford and Cambridge.”†

In his own time he was “famous for set speeches, and gained the reputation of a witty and weighty orator;” but I have been obliged to express my opinion, that the specimens of his eloquence transmitted to us are exceedingly dull and tiresome, having neither the point and quaintness of the preceding age, nor showing any approach to the vigour and eloquence which distinguished the latter half of the reign of Elizabeth.‡

No judicial decision of his, either in the Court of Chancery or in the Star Chamber, is reported, although we meet with much general commendation of his conduct as a Judge. He had the admirable qualities of patience and regularity; and he would often say, “Let us stay a little that we may have done the sooner,” — truly thinking, that an irregular attempt to shorten a cause generally makes it last twice as long as it would have done if regularly heard to its conclusion. When Lord Bacon, in his admirable essay “on Judicature,” draws the picture of a good Judge, he is supposed to have intended to delineate his sire. The old gentleman’s manner, however, seems to have had about it something of the ridiculous, for the saying went, “that some seemed wiser than they were, but the Lord Keeper was wiser than he seemed.”§

\* Hayward’s Annals of Elizabeth, published by Camden Society, p. 13.

† Puttenham.

‡ There are references to a MS. collection of his speeches said to be in the public library at Cambridge; but after a most diligent search, which I have caused to be made, it is not to be found.

§ There are a good many decrees of Sir Nicholas Bacon to be found in the Registrar’s Book. I will give an abstract of one of them, which may amuse my female readers, and will strikingly illustrate the manners of the times. Who would have thought of a courtship being carried on under the directions of the Lord Keeper? Two powerful Cheshire families, the Traffords and the Boothes, had had a violent feud respecting a marriage between young Edward Trafford and Margaret Boothe. “It therefore pleased her Highness the Queen, for the speedy end and quieting thereof, to direct her special warrant to her Lord Keeper, commanding him to hear and determine the same.” The young lady’s father alleged “that neither there was nor could be any such liking between the said Edward and Margaret as

He wrote "A Treatise of Treason," and other works which have deservedly perished. Only two of his publications are extant to reconcile us for the loss of the rest ;— 1. "An argument to show that the persons of noblemen are attachable by law for contempts in the High Court of Chancery;" and, 2. "A Palinode, proving the right of succession to the Crown of England to be in the family of the Stuarts descended from Henry VII., exclusive of Mary, Queen of Scots, who had forfeited her rights."

His *bon mots* have had better luck, for several of them which have been preserved show that, for a Keeper of the Great Seal, he was by no means a contemptible jester.

were convenient to have a marriage between them, and that the said Margaret could not in her heart like well of the said Edward." "Wherupon the said Lord Keeper, understanding the said Margaret to have accomplished the full age of twelve years, and wishing to be informed of the truth of this objection before he should proceed to any decree, doth require and enjoin Thomas Stanley, Esq. [ancestor of the present Lord Stanley, of Alderly,] in whose indifferent custody the said Margaret now is, to suffer the said Edward to have access to the house of the said Thomas Stanley, and that the said Edward and Margaret shall there have meeting, talk, and conference the one with the other, two or three several times before the term of St. Michael next coming, in the presence of the said Thomas Stanley, and thereupon the said Thomas Stanley shall diligently examine and try, by such convenient and good means as he can, what liking the said parties shall have of each other, and shall advertise the said Lord Keeper of his doings and proceedings in that behalf, and what liking he shall find in the said parties." Mr. Stanley certified to the Lord Keeper that "he had permitted the said Edward and Margaret to have meeting and talk together at his house and in his presence, on the 6th day of August, and on the 19th day of September, on which last day the said Thomas Stanley, after that the said Edward and Margaret had had some talk and conference the one with the other, took the said Edward apart and demanded of him what liking he had of this gentlewoman ? who answered that he had very good liking of her. And thereupon taking the said Margaret also apart, demanded of her what liking she had of the said Edward ? who likewise did answer that she had very good liking of him." He then gives a similar account of another meeting which the lovers had on the 26th of September, when "the said Edward declared that he could be very well contented to marry the said Margaret, and the said Margaret declared that she could be very well contented to marry the said Edward with a free good will, and farther that she had not been persuaded nor dissuaded to have liking or disliking of the said young Trafford." Thereupon the said Lord Keeper, by his final decree, bearing date the 8th of November, 15 Eliz., "ordered and directed that the said Margaret should be delivered by the said Thomas Stanley into the custody of the father of the said Edward, to the end that a marriage may be had between the said Edward and Margaret, and that nothing shall be done to hinder the delivery of the said Margaret into such custody to the intent aforesaid." The decree then goes on to order certain sums of money to be paid by their relations for the benefit of the young couple, "all the several payments aforesaid to be made at or in the south porch of the parish church of Manchester, in the county of Lancaster, between the hours," &c. But there is a proviso that the young lady shall still have free choice to take or refuse her suitor "without any threatenings or other constraints to be used to her;" and that if she should change her mind before the marriage was celebrated, she should be delivered back into the custody of her own father. Reg. Lib. A. 1573, p. 71.—This proceeding reminds us of the decrees of the French parliaments for a *congrès* to see if the parties *well liked of each other* — after marriage.

Being asked his opinion, by the Earl of Leicester, concerning two persons of whom the Queen seemed to think well, "By my troth, my Lord," said he, "the one is a grave Councillor; the other is a proper young man, *and so he will be as long as he lives.*"\*

At a time when there was a great clamour about monopolies created by a license to make a particular manufacture, with a prohibition to all others to do the like,—being asked by Queen Elizabeth what he thought of these monopoly licenses, he answered, "Madam, will you have me speak the truth? *Licentiā omnes deteriores sumus.* We are all the worse for licenses."

Once going the Northern Circuit as Judge, before he had the Great Seal,—he was about to pass sentence on a thief convicted before him,—when the prisoner, after various pleas had been overruled, asked for mercy on account of kindred. "Prithee," said my Lord Judge, "how comes this about?" "Why, if it please you, my Lord, your name is *Bacon*, and mine is *Hog*, and, in all ages, *Hog* and *Bacon* have been so near kindred that they are not to be separated." —"Ay, but," replied the Judge, "you and I cannot be kindred except you be *hanged*, for *Hog* is not *Bacon* until it be well *hanged*."

He used to tell a story which he was supposed to have invented or embellished,—that at the next assize town a notorious rogue, knowing that there was a clear case against him, and hoping that he might have some chance from my Lord Judge's love of humour,—instead of pleading, took to himself the liberty of jesting; and, as if the Judge having some evil design, he had been to swear the peace against him,—exclaimed, "I charge you in the Queen's name to seize and take away that man in the red gown there, for I go in danger of my life because of him."

At times he had a slight hesitation, which impeded his utterance. A certain nimble-witted councillor at the bar having often interrupted him, he at last said, "There is a great difference between me and you,—a pain for me to speak, and a pain to you to hold your peace." There was then a glimpse of silence, of which the Lord Keeper took advantage to finish his sentence.

On a bill exhibited to discover where lands lay, being told that the plaintiffs had a certain quantity of land, but could not set it forth, he was wont to say, "And if you cannot find your land in the country, how do you expect me to find it for you in the Court of Chancery."†

Soon after his death, a wag at the Chancery bar, to expose the practice beginning to prevail too much of referring every thing to the Master (then called "the Doctor," from the Masters being all Doctors of the civil law), feigned a tale that Sir Nicholas, when he came to Heaven's gate, was opposed in respect of an unjust degree which he

\* This sarcasm (indifferent as it is) was stolen from Sir Thomas More, who when his wife at last had a son who turned out rather silly, observed to her that she had so long prayed for a boy, he was afraid her son would continue a boy as long as he lived.

† Lord Bacon's *Apophthegms. Works*, ii. 401.

had made while Lord Keeper. He desired to see the order, and, finding it to begin "Veneris," &c., "Why," saith he, "this being done on a Friday, I was then sitting in the Star Chamber: it concerns the Master of the Rolls: let him answer it." Sir William Cordell, M.R., who died soon after, following, he was likewise stayed upon it. Looking into the order, he found it ran thus: "Upon reading the report of Dr. Gibson, to whom this cause stood referred, it is ordered, &c." And so he put it upon Dr. Gibson; who, next coming up, said that the Lord Keeper and his Honour the Master of the Rolls were the parties who ought to suffer, for not doing their own work;—whereupon they were all three turned back.

Considering that he held the Great Seal above twenty years, he left behind him a very moderate fortune, which was chiefly inherited by his eldest son,—Francis and the younger children being but slenderly provided for. His town residence was York House, near Charing Cross, where he exercised great hospitality. After the visit from Queen Elizabeth, he added wings to his house at Gorhambury, and laid out a great deal of money in planting and gardening there. The decorations of his grounds, however, displayed the bad taste of the age. For example, in a little banqueting house there was a series of pictorial designs emblematic of the *LIBERAL ARTS*,—to wit, *GRAMMAR, ARITHMETIC, LOGIC, MUSIC, RHETORIC, GEOMETRY, and ASTROLOGY*, with hideous portraits of their most celebrated professors, and each one with a barbarous Latin couplet. Over the hall door was an inscription, which marks the period of the erection as the 10th year of his Keepership (1568):

" *Hec cum perfecit Nicholaus tecta Baconus*  
*Elizabeth regni lustra fuere duo.*  
*Factus Eques, magni custos erat ipse sigilli;*  
*Gloria sit sola toto tributa Deo.*  
*MEDIOCRIA FIRMA.*

He was extremely popular with the English nation, but particularly odious in Scotland, from the part he took in the continued imprisonment of Queen Mary, and the reports spread of his dislike to all the inhabitants of that country. Gross libels against him were printed at Edinburgh, and circulated industriously in London. The Queen issued a proclamation ordering them to be burnt, and highly commending the services of the Lord Keeper.

Sir Nicholas Bacon was twice married; first, to Jane, daughter of William Fernley, Esq., of West Creding, in Suffolk, by whom he had several sons and daughters; and, secondly, to Anne, daughter of Anthony Cooke, Esq., of Giddy Hall, in Essex, by whom he had two sons, Sir Anthony,—and Francis, the immortal Lord Verulam, Viscount St. Alban's. It was by this latter marriage that the connection was created between the Cecils and the Bacons.

The subject of this memoir would probably have filled a greater space in the eyes of posterity had it not been for the glory of his son;

but one of the grounds on which we ought to admire and to respect him is the manner in which he assisted in forming a mind so super-eminent ; he pointed out the path by which FRANCIS BACON reached such distinction in literature and eloquence, and became the first philosopher of any country or any age.\*

## CHAPTER XLIV.

### LIFE OF SIR THOMAS BROMLEY, LORD CHANCELLOR OF ENGLAND.

ON the sudden death of Lord Keeper Bacon great perplexity existed with respect to the appointment of his successor. On the day he expired the Queen sent Lord Burghley and Lord Leicester to York House for the Great Seal, and they [FEB. 1579.] having received it from Lady Bacon, his widow, in a bag sealed with his private signet, took it to the Queen, who was in her palace at Westminster. She retained it in her own keeping about two months, while she considered with whom she should intrust it. Luckily, this period was in the interval between Hilary and Easter terms, so that the delay in filling up the office did not cause any serious interruption to the despatch of business in the Court of Chancery. The sealing of writs and patents was accomplished under the Queen's immediate orders. To show her impartiality, she handed it over for this purpose, alternately, to the heads of the two opposite parties, Burghley and Leicester ; except that, on one occasion, the latter being absent to prepare for receiving a royal visit at Kenilworth, Secretary Walsingham was substituted for him. The Close Roll records, with much circumstantiality, no fewer than seven instances of the Great Seal being so used between the 27th of February and the 26th of April.†

\* See Rawley's Life of Bacon. Baconiana. Lord Bacon's Works, ii. 407, 422, 426 ; iii. 96 ; iv. 368.

† I shall copy as a specimen of this entry the recovery of the Great Seal on Sir N. Bacon's death, and the first instance of its being used while in the Queen's custody. "Memdum qd Die Veneris &c. (Feb. 20, 1 Eliz. circa horam nonam ante meridiem ejusdem diei Magnum Sigillum suum regium post mortem egregii viri Nichi Bacon militis tunc nuper Custodis ejusdem Magni Sigilli exist. in quadam baga de corio inclus. et signato ejusdem Nichi sigillatum et cooperta alia baga de velueto rubeo insigniis regis ornat. nobilibus viris Willo Dno Burghley Dno Thesaurario Angl. et Robo Comiti Leicester ex mandato ejusdem Dne Regne apud Hospicium ejusdem Nichi vocatum Yorke Place prope Charing Crosse in quadam interiori Camera ibidem per dominam Annam Bacon Viduam nuper uxem ejusdem Nichi liberatum fuit; Quicquidem Wills Ds Burghley et Robertus Comes Leicestr sigillum predictum in baga predicta inclusum et sigillo ipsius Nichi ut predictur munitum de manibus ejusdem Dne Anne Bacon recipien. illud circa horam

There being now an outcry that no injunctions could be obtained, and that the hearing of causes was suspended, the Queen, who personally made all such appointments, and sometimes vacillated much about them, was informed that Westminster Hall could go on no longer without a Lord Chancellor or Lord Keeper. [APRIL, 1579.] She was determined that the clergy should be kept to their spiritual affairs; a mere politician could not be fixed upon without great scandal, and there was no lawyer whom she considered eligible. Sir Gilbert Gerrard had been Attorney General ever since her accession to the Crown; but although he was well learned in his profession and very industrious, he was awkward and ungainly in his speech and manner, and not considered fit for such a place of representation and dignity. Yet there was a reluctance to pass over a man of approved service. Sir Thomas Bromley, the Solicitor General, was inferior to him in legal acquirements, but was much more a man of the world, and had shown himself a most zealous partisan, and ready, without scruple, to perform any task that might be assigned to him. After much intriguing, the friends of Mr. Solicitor prevailed with the Queen; and on a suggestion that, on account of his inferior rank, there might be a disposition not to treat him with proper respect, she added to their triumph by delivering the Great Seal to him, with the title and rank of "Lord Chancellor."\*

Sir Gilbert Gerrard, the Attorney General, was consoled with a promise of the office of Master of the Rolls, which was actually given to him on the 30th of May, 1581.

Although Sir THOMAS BROMLEY held the Great Seal during eight years, he would hardly have been known to history, had it not been from the part he acted in the proceedings against the unfortunate Mary Stuart; but he will be remembered to the latest times as the person who framed the measures intended to bring her to the scaffold, and who actually presided at her mock trial in the hall of Fotheringay Castle.

He was the son of George Bromley and Jane, daughter of Sir Thomas Lacon of Whitley, and was born in the year 1530 at Bromley, in the county of Salop, where the family had been seated many

decimam ante meridiem predicti diei prse Dne Regne in sua privata Camera infra  
palacium suum Westmon. ibidem juxta ipsius Dne Regne beneplutum obtulerunt  
et presentaverunt ac eadem Dna Regina, &c. (received the Seal and kept it till  
 Feb. 24, when she delivered it to Burghley and Leicester,) "pro tempore utend.  
 et exercend. Quo accepto iidem Wills Dns Burghley et Comes Leicester tunc im-  
 mediate usque Magnam Cameram Concilii infra palacium prdm asportari fecerunt  
 et sigillum illud ibidem extra bagam prm adtunc extrahi fecerunt et eodem sigillo  
 sic extracto divers. literas patentes processus et brevia de communi cursu Regni  
 Angl. in presencia Thom. Poole, &c. sigillari fecerunt." Then comes a statement  
 of their having, at seven o'clock, restored the Seal to its integuments, and given it  
 to the Queen in her private chamber, and that the Queen kept it there till the 8th  
 of March, — the whole history being repeated *toties quoties*.

\* Rot. Cl. 21 Eliz. p. 201.

ages, their name being territorial.\* I do not find any information respecting his school or academical education. He was bred to the law in the Inner Temple, and was there remarkable for his proficiency and the regularity of his conduct. Rapidly rising to [MARCH 14.] eminence at the bar, he was, in 1566, elected Recorder of London, and having secured the good opinion and patronage of Lord Keeper Bacon, in 1570 he was made Solicitor General.†

His first great public appearance in his official character was on the trial of the Duke of Norfolk for high treason, before [JAN. 1572.] the Court of Lord High Steward. The counsel for the Crown were Barham the Queen's Serjeant, Gerrard the Attorney General, Bromley the Solicitor General, and Wilbraham, the Queen's Attorney of the Court of Wards. We have a shorthand writer's report of the trial, which is extremely curious, and shows that Bromley was exceedingly zealous in bringing about the conviction.‡ The Court consisted of the Earl of Shrewsbury, appointed Lord High Steward, the Great Seal being in the keeping of a Commoner,—and twenty-six Peers triers, attended by all the common-law Judges as assessors. The indictment had been settled at a conference of all the Judges before it was preferred to the grand jury. No regularity was observed, much of the time being occupied with dialogues between the prisoner and the Judges, and interlocutory speeches by the Lord High Steward, the Lord Triers, the Judges, and the counsel. The French fashion of interrogating the prisoner then prevailed in England, and the Duke was frequently asked to admit or to deny certain facts,—to explain his conduct on particular occasions,—and to reconcile the evidence adduced against him with his alleged innocence.§

Barham, the Queen's Serjeant, holding an office which had precedence of that of the Attorney General till the regency of George IV., began, and gave in evidence copies of letters, examinations, and confessions, mixing them up with speeches from himself and questions addressed to the prisoner, to show that the Duke persisted in his design to marry the Queen of Scots after his promise not to do so, and that he was engaged in a plot to further her escape. Mr. Attorney having followed in the same strain, Bromley, Solicitor General, thus began:—“For that the time is spent, and your Lordships I think are weary, I will not now make any collection what

\* As we say in Scotland, “Bromley of that ilk.” This family produced several other distinguished lawyers; among these were Sir Thomas Bromley, made a Judge of the King's Bench, 36 H. 8.—and Sir George Bromley, a brother of the Chancellor, a Justice of North Wales. Dugd. Or. Jur.

† Pat. 11 Eliz. Or. Jur. s. 3.

‡ 1 St. Tr. 957.

§ He was first very artfully asked “whether he knew that the Scottish Queen pretended title to the present possession of the crown of England,” and wishing to evade the question, he is pressed, “Did you know that she claimed the present possession of the Crown?—that she usurped the arms and royal style of this realm?—and that she made no renunciation of that usurped pretence?”

hath been gathered of the attempt of marriage with the Scottish Queen ; only I will deal with the matter of Rodolph's message, and the effect thereof ; and the Duke's adhering to the Queen's enemies and rebels, shall be another part." He then proceeded, at considerable length, to detail the supposed plan of invading the kingdom by the intrigues of Rudolfi, an Italian banker, with the duke of Alva, and gave in evidence a decyphered copy of a letter from Rudolfi to the Duke, alleged to have been delivered to him by one Barker, who was supposed to have taken the copy.—*Duke*. "It may be Barker received this letter as you spake of, and that it was decyphered, and that it contained the matters that you allege, but it may be that they kept that letter to themselves, and might bring me another letter containing only such matter as I was contented with."—*Solic.* "An unlikely matter ! But thus you see the Duke confesseth the receipt of the letter ; he only denieth it was to this effect."—*Duke*. "I know not. Barker presented me the letter out of cypher, and I had not the cypher, nor saw any such letter as you allege."—*Solic.* "The Pope sent letters to the Duke and the Scottish Queen, that he liked well of their enterprise. Would Rodolph have gone to the Pope and procured letters if he had not had instructions accordingly ? The Duke himself hath confessed such a letter."—*Duke*. "Barker indeed brought me about six or seven lines written in a Roman hand in Latin, beginning thus, *Dilecte fili, salutem*. I asked what it was ? Barker told me it was a letter from the Pope to me, wherewith I was offended, and said, 'A letter to me from the Pope ! How cometh this to pass ?' Barker excused it, and said that Rodolph had procured it for his own credit."—*Solic.* "The Duke received it and read it, and said, Rodolph hath been at Rome : I perceive there is nothing to be done this year. By this it appeareth that he reproved not Barker for bringing it unto him." Mr. Solicitor having proved his position according to the law and logic then prevailing, thus concluded : "I have also, my Lords, one thing more to say to you from the Queen's Majesty's own mouth. The Lords that be here of the Privy Council do know it very well,—not meet here in open presence to be uttered, because it toucheth others that are not here now to be named but by her Highness's order. We pray that their Lordships will impart it unto you more particularly. In Flanders, by the ambassador of a foreign prince there, the whole plot of this treason was discovered, and by a servant of his brought to her Majesty's intelligence ; the minister not meaning to conceal so foul and dishonourable a practice, gave intelligence hither by letters, and hath therein disclosed the whole treason in such form as hath here been proved unto you : whereupon I refer the more particular declaration thereof to the Peers of the Privy Council."

So a capital charge was to be made out by the parol statement, in the absence of the accused, of the Queen's ministers (who had advised the prosecution) of the contents of a despatch from a foreign minister, giving an account of something he had heard from others

abroad respecting a plot to be carried into effect in England;—but no doubt could be entertained either as to the admissibility or conclusiveness of this evidence, for it was produced by an express order from the Queen's Majesty's own mouth.

After a speech from Wilbraham, the Attorney of the Court of Wards, said to have been the most eloquent that had then ever been heard at the English bar, and some more copies of letters, confessions, and examinations,—without any witness being called, the case for the Crown was closed. The prisoner had asked for the assistance of counsel; but the Chief Justice declared the unanimous opinion of the Judges, that to allow counsel against the Queen was contrary to all precedent and all reason.\* He was asked whether he had aught else to say? He answered, “he trusted to God and truth.” He was then removed, and the Lord High Steward summed up the case to the Lords Triers, and willed them to go together. They withdrew from Westminster Hall into the Court of Chancery, and after a consultation of an hour and a quarter returned with an unanimous verdict of *Guilty*. On the prayer of the Queen's Serjeant, the frightful sentence in cases of high treason was pronounced on the undaunted Norfolk.† But this conviction, even in that age, caused such dissatisfaction, that the government did not venture to [APRIL 30, 1572.] carry it into execution for several months; nor until the public mind had been alarmed by reports of an insurrection to rescue him from the Tower, and to dethrone the Queen.‡

Mary was thrown into the deepest grief by the fate of Norfolk. If his manly beauty and elegant accomplishments had not made an impression upon her heart, at any rate she was touched by his devoted services, and she considered him a martyr in her cause. It was hoped that while she was in this state of mind she might be [JUNE, 1572.] induced to make concessions which she had hitherto haughtily refused. Accordingly, Bromley, the Solicitor General, attended by several others, was sent to negotiate with her.

Being admitted by her to an audience, he enumerated the injuries of which the English government complained,—her assuming the arms of England,—her refusing to ratify the treaty of peace between England and Scotland,—her plan of marrying without the Queen's

\* Before they are heavily censured for the horror with which they viewed such a proposal, let it be remembered that the bill to allow prisoners the assistance of counsel in cases of felony was strongly condemned by all the Judges of England, except one, in the reign of King William IV.

† 1 St. Tr. 978.

‡ I ought not to have any bias in favor of the Duke of Norfolk, for he seems to have thought that all my countrymen were without honour or veracity, and he was ready, in a very peremptory manner, to avow this sentiment. The written examination of Leslie, Bishop of Ross, being given in evidence against him, he considered that it required no other answer than this:—*Duke.* “He is a Scot.” The reply was, “A Scot is a Christian;”<sup>1</sup> but this did not at all satisfy the Duke.

consent, — her stirring up sedition at home, — her attempt to engage the King of Spain in an invasion of England, and her procuring the Pope's bull for the excommunication of Elizabeth. The object was, that she should formally resign the crown of Scotland, and transfer to her son all her rights both in Scotland and in England ; after which she could no longer have been considered a rival, and the hopes of the Catholics, from having the presumptive heir to the Crown of their religion, would have been extinguished.

But all Bromley's eloquence and ingenuity were wasted upon her. She either denied the grievances of which the English Queen complained, or threw the blame of them upon others : she said she never would do any thing to hazard the independence of Scotland, or bring dishonour on her race, or compromise the interests of her religion ; and she expressed a fixed purpose, — sacrificing none of her rights, — to live and to die a Queen. She again earnestly renewed her supplication that she might be admitted to the presence of Elizabeth, so that all doubts might be cleared up, and lasting harmony might be established between them.\*

When Bromley reported this answer, instead of the proposed meeting being granted, her existence was considered inconsistent with the public safety, and a determination was formed to bring her to the scaffold. But this could only be carried into effect by great caution, and by waiting for, or contriving, or hastening events, which should soften the atrocity of such an outrage in the eyes of mankind.

In the meanwhile Bromley performed the routine duties of his office of Solicitor General in a very satisfactory manner, and he was consulted by the Council in matters of a political nature, rather than Sir Gilbert Gerrard, the Attorney General. Of him they were heartily tired, but they did not know how to dispose of him, for he would not give up his lucrative place to be made a puisne Judge, and his long services and respectable character forbade his unceremonious dismissal.

Things proceeded on this footing till the death of Lord Keeper Bacon, when, after the hesitation and struggle I have described, Bromley was put over the head of Gerrard and made Lord Chancellor.

Queen Elizabeth, when she delivered the Great Seal to him, addressed him in a set speech complimenting him on his good qualities, and giving him much wholesome advice as to the manner in which he ought to perform the duties of his new office. He thus replied : — [APRIL 26, 1579.] “ I do most humblie thanke your Ma<sup>e</sup> for this so great and singuler good opynion which your Highnes hath conceived of me as to think me fy for this greate service and credit under your Ma<sup>e</sup>, and I am very sorry there is not in me such sufficiencie as might satisfie and answer this your Ma<sup>e</sup> good epynion. If I had all the wisdome, and all the learninge, and all other good qualities and virtues that God hath given to all men livinge,

\* Camden, p. 440. Strype, vol. ii. 40. 51.

I should thinke them to fewe and to small to be imploied in your Highnes' service. But when I consider my selfe and fynde my greate wantes and lackes to do your Ma<sup>ie</sup> such service as appertayneth, I am driven most humbly to beseech your Ma<sup>ie</sup> to tollerate with me my many and sondry defectes and ymperfections. To this humble petition I am the more forced for two other causes : the first is the greate learninge, wisdome, and judgments that resteth in your Ma<sup>ie</sup>, to whome my ignorance and rudeness will easily appere : the seconde is, that yf your Highnes shall ympose this greate charge uppon me, I shall succede one in whom all good qualities did abounde fy for the due execution of your Ma<sup>ies</sup> service in that place, wherby my want and insufficiency shalbe made more manifest. Yet nevertheless, trustinge in the assistaunce of Almightye God, and in the noblenes and bounte of your Ma<sup>ies</sup> nature, I do, as my duty bindeth me, humblye submyt my selfe to be disposed of as shall stande with your Ma<sup>ies</sup> good pleasure. Concerning these good preceptes and admonitions which it hath pleased your Highnes very prudentlie to give unto me, I shall pray earnestlie to Almightye God to give me his grace that I may follow the same, and do my best and uttermost endevor effectually to performe them."\*

\* " Egerton Papers," published by Camden Society, p. 82. It is there supposed that Bromley was first made Lord Keeper and afterwards Lord Chancellor, and a speech is given supposed to be spoken by him on the former occasion, — but the Close Roll demonstrates that he was constituted Lord Chancellor when the Great Seal was first delivered to him, and the first speech can only be a MS. sketch with which he was dissatisfied. The following passage is rather eloquent : — " To be plaine with your Ma<sup>ie</sup>, I have found in the course of my life that I have led sithence the Kinge your father's death, such suretie in all changes, and such quietnes and delight in other tymes, that I cannot but like and love that sort of life as the best for my selfe ; nor cannot make my selfe beleieve that I can make any change thereof but for the worse respectinge my private comodities. Many, againe when I remember this tym (which I give thankes that it is my chaunce to live to see), and therwith my dutie to your Ma<sup>ie</sup> as my soveraigne Lady, and my duty to my countrie, I am then driven to thinke that I ought of right to make of every paine tending to that end a delight, and to preferre busines and trouble before quietnes and ease, and to adventure any daunger without regard of private suretie." p. 81.

The Close Roll takes no notice of these speeches, but describes the melo-dramatic part of the ceremony with great minuteness. " Et postea Die Dominica, &c. prdm Magnum Sigillum Anglie in custodia prfsta Dne Regne sic ut prdm existens apud prdm Palacium suum Westmonasterii circa horam undecimam ante meridiem eiusdem diei prta Dna Regina in sua Camera privata ibidem tunc existens ex mandato suo regali per nobilem virum Thomam Comitem Sussex Dnum Camerar. Hospicii sui sue Majestati eductum fuit Illudque in purpureo sacculo de veluto suis Regalibus Signaculis perpolito remanen. sua Majestas percepit eripi et imme- diata eciam mandavit sigillationem cujusdem Loculi corei infra sacculum prdm tunc existens frangi et prdm Mag. Sigil. tunc et ibidem evelli et aperi. Quod antedictum Mag. Sig. in binas seperatim partes dicta Dna Regina unam in sua manu propria sublimitas tenuit partem et prdus Comes Sussex alteram sua partem

Lord Chancellor Bromley, as an Equity Judge, followed in the foot-steps of Lord Keeper Bacon, and gave almost as great satisfaction. Although he had previously practised principally in the Court of Queen's Bench, — from the time when he was made Solicitor General he had been engaged in all the important cases which occurred in Chancery, and he was well acquainted with the practice of the Court, which had now assumed considerable regularity. The common-law Judges at this time were very distinguished men, — Wray, Anderson, Manwood, Gawdrey, Windham, Periam. The Chancellor showed much deference for their opinion, without hesitating to interfere by injunction where he thought that, from the defective or too rigid rules of the common law, justice was likely to be perverted. He professed to hold jurisdiction over "covin, accident, and breach of confidence," according to the rule that "matters cognisable by the common law ought not to be decided in Chancery," — but by "cognisable" by the common law, he understood where by the common-law process truth could be effectually discovered, and right done to all parties interested.\* He was likewise in the habit of calling in the assistance of common-law Judges when questions of novelty and difficulty arose before him ; and in this way the indecent contests which agitated the opposite sides of Westminster Hall in the succeeding reign were avoided.

Bromley is not celebrated as a great jurist, or as being one of those who laid the foundation of our system of Equity ; but while he held the Great Seal I find no trace of any complaint against him as a Judge, either on the ground of corruption, or usurpation, or delay ; and we may be sure if there had been abuse there would not have been silence, from the shout of discontent set up when a mere courtier was appointed to succeed him. Camden describes him as " *Vir jurisprudentia insignis* ;" and it was said of him that " such was his learning and integrity, that although he succeeded so popular a Judge as Sir Nicholas Bacon, the bar and the public were not sensible of any considerable change."

He had to take his place on the woolsack in the House of Lords on the 16th of January, 1582. The Commons, in great perplexity on account of the death of their Speaker during the recess, sent a depu-

*tenuit manu Et cum prda Dna Regina in eam paulisper contemplata esset prdm sigillum precepit conjungi et in prdo loculo in coreo insigillat. locari et extempore reponi in sacculum prdm ex purpureo veluto factum et tunc prdm in manu sua propria respiciens sacculum ac ibidem in manibus suis aliquantis per retinens, illud et Mag. Sig. prdm in nobilium et egregiorum virorum Edwardi Comitis Lincoln," &c. A long list, ending with " et Thome Bromley militis unius privati consilii sui et aliorum presencia puto honorabili viro Thome Bromley militi tradidit et deliberavit," &c. Then follows the usual language, that he was constituted Chancellor with all the powers exercised by his predecessors, and that he, gratefully accepting the Seal, carried it off and still retains it.—Rot. Cl. 21 Eliz. See Cary's Reports, p. 108.*

\* See 4 Inst. 88, 84.

tation to the Lord Chancellor and the Lords to request their aid and advice. The Lord Chancellor, having ordered them to withdraw, informed the House of their petition, and it was resolved to appoint such of the Lords as were of the Privy Council to go along with a select number of the Commons to represent the case to the Queen. A commission thereupon passed the Great Seal authorising the Chancellor to require the Commons to choose a new Speaker. Popham, the Queen's Solicitor General, was chosen accordingly and approved of. But when he claimed the accustomed privileges of the House, the Chancellor, by the Queen's order, gave him this admonition : "That the House of Commons should not deal or intermeddle with any matters touching her Majesty's person or estate, or Church government."\*

This injunction was not very strictly observed, especially by the Puritans, who now began to be very troublesome. As soon as a subsidy had been voted the session was therefore closed, and the Lord Chancellor in his speech took care to exclude from the Queen's thanks "such members of the Commons as had dealt more rashly in some things than was fit for them to do." He soon afterwards dissolved this parliament, which had been continued by prorogations during a period of eleven years.†

It is remarkable how few instances of poisoning or assassination occur in the history of England compared with that of France or the States of Italy. The reason may be, that with us parliament was a more ready and convenient instrument of vengeance than the bowl or the dagger, and the object of the ruling party could always be attained under the forms of law. The captive Queen of Scots, the presumptive heir to the Crown of England, had not only rendered herself odious and dangerous to Elizabeth, but the English ministers who had concurred in all the rigorous measures against her, were alarmed by the apprehension that, in case of any accident happening to the reigning Sovereign, she whom they had persecuted might at once be taken from a prison and placed on the throne, the arbitress of their destiny. Leicester repeatedly recommended that she should be taken off by poison, and, with all his profligacy, pretending a great regard for religion, defended the lawfulness of this expedient. The wary Burghley, consulting with the Chancellor, thought that it would be much better to proceed by act of parliament and a mock court of justice ; — "thus they would make the burden better borne, and the world abroad better satisfyed."‡ Accordingly, summonses were issued for a parliament to meet on the 23d of November, 1585.

Lord Chancellor Bromley opened the session with a speech stating that Parliament was called to consider of a new law which had become necessary for the protection of her Majesty's person against the machinations of her enemies, and for securing the peace of the realm.§

\* 1 Parl. Hist. 811.

† Ellis, iii. 5.

‡ Ibid. 821.

§ 1 Parl. Hist. 821.

It was resolved that Mary should be brought to trial, but a great difficulty arose as to the tribunal before which she should be tried. The House of Peers or a Lord High Steward's Court, consisting of a selection of Peers, would have been very convenient; but although of the blood royal of England, she was not an English peeress. A packed jury might easily have been impanelled to convict her; but foreign powers would have exclaimed against a Sovereign Princess being condemned as if she were a common felon. Therefore a bill was immediately introduced, which speedily passed both Houses, enacting that a Court should be established, consisting of twenty-four at the least, whereof part should be of the Queen's Privy Council, and the rest Peers of the realm, to examine the offences of such as should make any open invasion or rebellion within the kingdom, or attempt hurt to the Queen's person, or any like offence, by or for any pretending title to the Crown, and that any such offender being convicted shall be disabled to have or pretend title to the Crown, and shall be pursued to death by all the Queen's subjects.\*

Elizabeth was so much pleased to find her victim now at her mercy, that she would not trust the Lord Chancellor to return thanks, but herself said, — “ My Lords, and ye of the Lower House, my silence must not injure the owner so much as to suppose a substitute sufficient to render you the thanks that my heart yieldeth you, not so much for the safe keeping of my life for which your care appears so manifest, as for the neglecting your private future peril, not regarding other way than my present state. No Prince herein, I confess, can be surer tied or faster bound than I am with the link of your good will, and can for that but yield a heart and a head to seek for ever all your best.”†

The Lord Chancellor now took an active part in the examination and prosecution of Babington and his associates‡, whose conspiracy had been under the superintendence of the Cabinet, and they being justly convicted and executed, the time had arrived when proceedings might be taken against Mary herself, who was well aware of the plan to liberate herself from imprisonment, but (as I firmly believe) by no means of the intention to assassinate Elizabeth. A commission passed the Great Seal, appointing the Chancellor and forty-five others, Peers, Privy Councillors and Judges, “ a court to inquire into and [Oct. 4, 1586.] determine all offences committed against the recent statute, either by Mary, daughter and heiress of James V., late King of Scotland, or by any other person whatsoever.”§

Mary had been removed to Fotheringay, in Northamptonshire, the place selected for her trial and death. On the 11th of October, thirty-six of the Commissioners, headed by Bromley, arrived there, and took the command of the Castle from Sir Amias Paulet, who for

\* 27 Eliz. c. 1.

‡ Ellis, iii. 5.

† 1 Parl. Hist. 822.

§ Camden, 456.

some time had acted as her gaoler. The next day a letter from Elizabeth was delivered to her by a notary, announcing to her that she was to be tried. She said, "Let it be remembered that I am also a Queen, and not amenable to any foreign jurisdiction ;" and she referred to the protest she had before made to Sir Thomas Bromley, when Solicitor General. Lord President Bromley was much perplexed ; for if she had refused to plead before the Commissioners,—although they might have passed sentence upon her as contumacious, the proceeding would have lost all its dignity and effect. He prevailed upon her to meet him and a deputation of the Commissioners in a preliminary interview in the hall of the Castle to discuss the question of jurisdiction. He then pointed out to her that the commission under which they acted was fully authorised by the statute 27 Elizabeth. She maintained that this statute did not bind her ; that she was no party to it ; that it was contrived by her enemies, and passed for her ruin, and that, as an independent Sovereign, she was not subject to English law. Bromley read to her a passage in Elizabeth's letter, explaining that, "as she lived under the protection of the Queen of England, she was bound to respect the law of England." She eagerly and repeatedly asked him what was the meaning of that part of Elizabeth's letter, and whether she was to be considered as *protected*, when she was detained in England against her will, and kept in a state of rigorous imprisonment. The Lord President could only give her an evasive answer, saying that "the meaning was obvious enough, and that it was not for him to interpret the letter of his Sovereign, nor had he come there for that purpose." She said that his Sovereign was her equal, not her superior, and that she could not be lawfully tried till they found persons who were her peers. The baffled President urged that "neither her imprisonment nor her prerogative of Royal Majesty could exempt her from answering in this kingdom ; with fair words advising her to hear what matters were to be objected against her ; otherwise he threatened that by authority of law they both could and would proceed against her, though she were absent." She still answered, that "she was no subject, and rather would she die a thousand deaths than acknowledge herself a subject ; nevertheless she was ready to answer to all things in a free and full parliament. She warned them to look to their consciences, and to remember that the theatre of the whole world is much wider than the kingdom of England." The wily lawyer asked her "whether she would answer if her protestation were admitted." "I will never," said she, "submit myself to the late law mentioned in the Commission."

Sir Christopher Hatton, one of the deputation, though then a gay young courtier, thought he might succeed better than the grave old Chancellor with all his saws, and begged her Majesty to call to mind that if she refused to plead, the world might put an unfavourable construction upon her conduct,—whereas her reputation, to the general joy, might now be cleared from all suspicion. But no reasoning of the lawyers, no threat of proceeding against her for contumacy, not even

the imputation cast upon her fame, could at that moment shake her resolution. The last consideration, however, so artfully thrown out by Sir Christopher Hatton, on reflection distressed her, and receiving a second letter from Elizabeth saying,—“Act candidly, and you may meet with more favour,” she sent a message to Lord Chancellor Bromley that “she was willing to vindicate her innocence before the Commissioners,”—and, their jurisdiction being acknowledged, the trial proceeded in due form.

The Court assembled the next day in the presence Chamber, the [Oct. 14.] Lord Chancellor, as President, being seated on the right hand of a vacant throne, erected under a canopy of estate in honour of Elizabeth, and the other Commissioners on benches at the walls on both sides. The counsel for the Crown were stationed at a table at the lower end opposite the throne. The Queen of Scots entered, and occupied a chair placed for her near the middle of the room.

Silence being proclaimed, the Lord President, turning to her, thus spoke, “The most high and mighty Queen Elizabeth being, not without great grief of mind, advertised that you have conspired the destruction of her and of England, and the subversion of religion, hath out of her office and duty, lest she might seem to have neglected God, herself, and her people, and out of no malice at all, appointed these Commissioners to hear the matters that shall be objected unto you, and how you can clear yourself of them and make known your innocence.”

Mary, rising up, said that “she came into England to crave aid which had been promised her, and yet was she detained ever since in prison. She protested that she was no subject of Elizabeth, but had been and was a free and absolute Queen, and not to be constrained to appear before the Commissioners or any other Judge whatsoever, for any cause whatsoever, save before God alone the highest Judge, lest she should prejudice her own royal majesty, the King of Scots her son, her successors, or other absolute princes. But so protesting she now appeared personally to the end to refute the crimes objected against her.”

The Lord President answered, “that this protestation was in vain, for that whosoever, of what place or degree soever, should offend against the laws of England in England, was subject to the laws of England, and by the late act might be examined and tried ; the said protestation, therefore, so made in prejudice of the laws and Queen of England, was not to be admitted.”

She was about to withdraw, when, to secure the great advantage they had gained by inducing her to plead, the Court ordered as well her protestation as the Lord President’s answer to be recorded.

Gawdy, the Queen’s Serjeant, then opened the case against her, and adduced his proofs, consisting of copies of letters in cipher between her and Babington, and the alleged confessions and examinations of her secretaries Nau and Curle, and the confessions of Babington and Ballard his associate. She asked that an advocate might be

assigned to her to plead her cause, and this prayer being refused she defended herself with great spirit and presence of mind.

Without formally admitting, she did not struggle against the charge of being privy to the plan for procuring her enlargement, and she contended that even consenting to a foreign invasion for this purpose would not subject her to the pains of treason. All complicity in the plot to assassinate Elizabeth she most solemnly, and earnestly, and with many tears, denied. This charge resting entirely on certain expressions in the copy of a letter she was supposed to have written in cipher to Babington, and on the private depositions of her secretaries,—she said her letter had been interpolated, and dared them to produce the original,—she urged that if her secretaries had so deposed, it was from compulsion and to save their own lives, and she repeatedly required that they should be produced as witnesses, and that she might be confronted with them.

Burghley who, though he had hitherto remained very quiet, and, that he might not appear too conspicuous, had put forward the Chancellor and others as his puppets to move as he guided them, was in truth not only the adviser but the conductor of the prosecution,—became alarmed lest she should make an impression on some of her Judges; and, superseding the Chancellor as well as Gawdy and the Attorney and Solicitor General, he himself undertook to answer her, and tried to show the regularity of the proceedings, and the sufficiency of the proof against her. Still, not entirely trusting to his artful pleading, he did not venture to call for the verdict in her presence at Fotheringay, and at the end of the second day of the trial, the Court was adjourned to the 25th of October, in the Star Chamber at Westminster.\*

Then and there the Chancellor having taken his place as President, Nau and Curle were produced and examined, while the accused was immured in a distant prison, and the Commissioners all agreed in a general verdict of *guilty* against her, with the exception of Lord Zouch, who was for acquitting her on the charge of assassination.†

But Elizabeth, though she had resolved that the sentence should be carried into execution, had to prepare the nation for [Oct. 29, 1586.] this appalling step, and a few days after parliament assembled. Thinking it not decent to appear in person, she was represented on the first day of the session by the Archbishop of Canterbury, Burghley, and the Earl of Derby. The letters patent appointing them being read, they left their places, and went to a seat prepared for them on the right side of the throne; and then the Lord

\* In the reign of George III. it was justly thought unconstitutional and improper that the Lord Chief Justice of the King's Bench should be a member of the Cabinet, lest he should sit as Judge on the trial of a prosecution which, as minister, he had concurred in instituting. Upon the success of this prosecution depended all that Burghley held most valuable in the world, and he was at once judge, jury, and prosecutor.

† 1 St. Tr. 1161.

Chancellor Bromley, after going first to them and conferring with them, addressed the two Houses from his accustomed place, to the following effect: "That the present parliament was summoned for no usual causes; not for making new laws, whereof her Majesty thought there were more made than executed; not for subsidies with which, although there was some occasion for them, her Majesty would not burden her faithful subjects at this time, but the cause was rare and extraordinary; of great weight, great peril, and dangerous consequence. He next declared what plots had been contrived of late, and how miraculously the merciful providence of God, by the discovery thereof, beyond all human policy, had preserved her Majesty, the destruction of whose sacred person was most traitorously imagined, and designed to be compassed. He then showed what misery the loss of so noble a Queen would have brought to all estates; that, although some of these traitors had suffered according to their demerits, yet one remained, that, by due course of law, had received her sentence, which was the chief cause of this assembly, and wherein her Majesty required their faithful advice."\*

After the election and confirmation of the Speaker, the Lord Chancellor made another speech to the Lords, "setting forth the [Nov. 5.] foul and indiscreet dealings practised by the Queen of Scots against her Majesty and the whole realm, notwithstanding the many great benefits and favours which had been bestowed upon her since her arrival in this kingdom." This performance, however, was not at all satisfactory; and the prime minister himself standing up, said: "The whole proceedings of the said Queen of Scots were better known to him from his having had the honour to serve her Majesty from the commencement of her reign;" and he showed, at great length, the justice of the prosecution, and the necessity for carrying the sentence into effect. No one ventured to say a word for the condemned criminal, or even to hint that she had not had a fair trial.

Both Houses agreed upon an address to the Queen, which was delivered by the Lord Chancellor, urging that the sentence against the Queen of Scots might be immediately carried into execution; "because, upon advised and grave consultation, we cannot find that there is any possible means to provide for your Majesty's safety, but by the just and speedy death of the said Queen, the neglecting whereof may procure the heavy displeasure and punishment of Almighty God, as by sundry severe examples of his great justice in that behalf, left us in the sacred Scriptures, doth appear; and if the same be not put in present execution, we, your most loving and dutiful subjects, shall thereby (so far as man's reason can reach) be brought into utter despair of the continuance amongst us of the true religion of Almighty God, and of your Majesty's life, and of the safety of all your subjects, and the good estate of this most flourishing commonwealth."

Elizabeth, in her answer, in justifying the recent statute, and the

trial under it, fell foul of the poor Lord Chancellor and the gentlemen of the long robe. " You lawyers are so curious in scanning the nice points of the law, and proceeding according to forms rather than expounding and interpreting the laws themselves, that if your way were observed, she must have been indicted in Staffordshire, and have holden up her hand at the bar, and have been tried by a jury of twelve men. A proper way, forsooth, of trying a Princess ! To avoid, therefore, such absurdities, I thought it better to refer the examination of so weighty a cause to a select number of the noblest personages of the land, and the most learned of my Judges." However, she would not yet give a decisive answer as to the execution of the sentence ; but concluded with a prayer to Almighty God, so to illuminate and direct her heart, that she might see clearly what might be best for the good of his Church, and the prosperity of the commonwealth.\*

This irresolution was affected, in the hope that Mary might be removed by a natural death, or some other means, so as to avoid [FEB. 1, 1587.] the odium to be incurred by beheading upon the scaffold. A Queen, her guest, her nearest relative, and the heir presumptive to the throne ; but she at last signed the warrant for Mary's execution, directed to the Earl of Shrewsbury, as Earl Marshal, and ordered it to be carried to the Great Seal by Davison, her secretary. The Chancellor immediately appended the Great Seal to it ; and having informed Burghley that the instrument was now perfect, a Council was called, and they unanimously resolved that it should be sent off immediately, on the ostensible ground that the Queen had done all the law required on her part, and that to trouble her further was needless, and would be offensive to her feelings. Bromley, being at the head of the administration of justice, incurred the greatest responsibility in taking this step ; but he considered himself safe in co-operating with Burghley, who had before settled with Elizabeth that Davison should be the scape-goat.

In two days the warrant was executed, and Mary Stuart, in the last scene of her life, displayed such fortitude, composure, dignity, tenderness, kindness of heart, resignation, and piety, as to throw a shade over the errors she had had committed, and to make us disposed to regard her as one less criminal than unfortunate, and more to be pitied than condemned.†

\* 1 Parl. Hist. 842.

† I am far from being her indiscriminate defender, and I am sorry to acknowledge that the proofs of her being privy to the murder of Darnley are quite overwhelming. Yet her death was not creditable to the English nation. It was a national act. When the judgment of the Commissioners was proclaimed in London by sound of trumpet, the bells tolled merry peals for twenty four hours, bonfires blazed in the streets, and the citizens appeared intoxicated with joy, as if a great victory had been obtained over a foreign enemy. These rejoicings were redoubled on the news of her execution. " La nouvelle de cette exécution vint à Londres ; furent sonnés les cloches de toutes les églises vingt-quatre heures durant, et sur le

Bromley, who presided at her trial, was soon to present himself with her at the bar of that great Judge before whom all secrets are known. He had suffered much anxiety while the prosecution was going on ; he was deeply affected when he heard of the catastrophe ; and he felt dreadful alarm when he found that the Queen affected indignation and resentment against all who were concerned in it. Suddenly he took to his bed, and parliament meeting by adjournment on the 15th February, no business could be done on that or the following day on account of his sickness, for which no provision had been made. On the 17th, Sir Edmund Anderson, Chief Justice of the Common Pleas, read publicly, in the House of Lords, a commission from the Queen, directed to himself, by which he was authorised, in the absence of the Chancellor, to act in his stead ; and on the 23d of March, by reason of the continued sickness of the Chancellor, the deputy closed the session and dissolved the parliament.\*

Bromley never rallied, and on the 12th of April following he expired, in the fifty-eighth year of his age. The Close Roll is quite pathetic in giving an account of the transmission of the Great Seal to the Queen on his demise. After stating that he breathed his last at three o'clock in the morning, and that the Queen, being informed of this event, ordered John Fortesque, Master of her Wardrobe, to go and fetch her the Great Seal, observes, that he proceeded to the house of the late Chancellor, and entering it between seven and eight o'clock, found a large number of distinguished persons bewailing the loss of so great a man.†

*soir furent faites feux de joie par les rues de la ville.*‡ The sentiments of the upper classes may be learned from the unanimous petition of the two Houses of parliament that the judgment might be immediately carried into execution. The national character of Scotland was tarnished by the Scottish army delivering up her grandson, on condition that their arrears of pay were discharged ; but this was the sordid act of a few leaders, — of which all Scotsmen have since been ashamed, — while the murder of Mary for political expediency has still defenders in England. If I am accused of national prejudice in my strictures on the execution of Mary Queen of Scots, I will cite the words of Clarendon, a true Englishman, who describes it as a great blemish on Elizabeth's reign, and as "an unparalleled act of blood upon the life of a crowned neighbour, queen, and ally.

\* 1 Parl. Hist. 853.

† "Eodem die inter horas septimam et octavam ante meridiem ejusdem diei idem Iohannes Fortescue ad domum dicti nuper Cancellarii veniens ac in diversorum generosorum mortem dicti nobilis viri plangentium presencia," &c. It then goes on to narrate how the Great Seal in its leather and velvet bags under three private seals was found locked up in a chest, was delivered to Fortescue, the Queen's messenger, by Henry Bromley, the eldest son of the Chancellor, and how Fortescue arriving with it at the Court at Greenwich, waited with it in the Queen's outer chamber, where he remained for a little time, till her Majesty coming from her inner chamber where she had slept, received it from his hands, and retained it in her own custody. "Idem Iohannes Fortescue exteriorem privatam cameram dictae Dne

From incidental notices of him by his immediate contemporaries, he appears to have enjoyed considerable reputation in his own time, but afterwards he rather slipped from the recollection of mankind. He had not the good fortune to have his life written by a secretary or relative, and not being a leader of any great political or religious party, he did not gain posthumous fame by being praised like Cranmer, or abused like Gardyner. He was too ready in seconding the measures of Burghley to get rid of a Popish successor to the Crown, who had such reason to be hostile to the ministers of Elizabeth, but he does not seem liable to any other censure, and as an Equity Judge he was regretted till the very conclusion of this reign, when Lord Ellesmere was placed in the marble chair, and so much adorned it.

It ought to be mentioned to his honour, that in an intolerant age he was free from religious bigotry, and that while Chancellor he exerted himself to soften the execution of the laws against heretics.\*

He was buried with great pomp in Westminster Abbey, where a magnificent monument was erected to his memory.

By his wife Elizabeth, daughter of Sir Adrian Fortescue, he left several sons; but his male line failed in the fifth generation, when the heiress of the family was married to John Bromley, of Thorneweath Hall, in the county of Cambridge; and their son, Henry, having represented that county in several parliaments, was, in 1734, raised to the peerage, by King George II., under the title of Baron Montfort, — being ancestor of the present Henry Bromley Lord Montfort.†

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## CHAPTER XLV.

### LIFE OF SIR CHRISTOPHER HATTON, LORD CHANCELLOR OF ENGLAND.

ON the death of Lord Chancellor Bromley, Queen Elizabeth retained the Great Seal in her own custody above a fortnight, while she deli-

*Regine cum predicto sigillo solus intravit ac ibidem paulisper moram faciens dicta sacra Majestas Regina ab interiore privata camera ubi requiescebat veniens, " &c. — Rot. Cl. 29 Eliz.*

\* Of this we have a striking proof in a letter, dated July 1, 1582, addressed by him to the Bishop of Chester in favour of a Lady Egerton of Ridley, who had been sued in the Bishop's Court, and was in great danger of the flames: —

“ I have been acquainted with her longe, and have alwaies known her in other respects to be very well given, and in regard thereof do pitie her the more. I would be glade that by gentle meanes and by conference with some grave and learned men, she might be persuaded and wonne (yf it maie be), wherof I have some good hope. I have therefore thought good to recommend her simplicitie to y<sup>r</sup> Lordship, and to pray you to use some further tolleration with her until Candlemas next.” — *Peck's Desiderata*, vol. i. p. 122.

† See *Grandeur of Law*, ed. 1843, by Mr. Foss. *Nash's History of Worcester-shire*, p. 594., where there is a full pedigree of the Bromleys.

berated upon the appointment of his successor. During this interval, she thrice delivered it for the sealing of writs, commissions, and letters patent, to Lord Hunsdon, Burghley, and others; and they having carried it into the Council Chamber, and sealed all the instruments with it which required immediate despatch, returned it into her Majesty's hands.\*

There was now much speculation at Court, in Westminster Hall, and in the City of London, as to who should be the new Chancellor. Easter term was going on without any one to preside in the Chancery or in the Star Chamber, or to superintend the administration of justice. Opinions were divided between Serjeant Puckering, the Speaker of the House of Commons, Sir John Popham, the Attorney-General, and Sir Thomas Egerton, the Solicitor General. The first was in the direct line of promotion to high legal dignities, and he had given great satisfaction from the manner in which he had managed the House of Commons, in the delicate affair of the Scottish Queen, and in repressing the motions of the Puritans. Popham, afterwards so much distinguished as Chief Justice, had now a great reputation for a profound knowledge of the common law, and Egerton had given earnest of that intimate familiarity with the general principles of Jurisprudence, which being fully developed when he became Lord Ellesmere, made him be considered as the earliest founder of our system of Equity.†

But what was the astonishment of courtiers, of lawyers, and of citizens, when, on Saturday the 29th of April, it was announced that her Majesty had chosen for the Keeper of her conscience,—to preside in the Chancery and the Star Chamber, and the House of Lords,—and to superintend the administration of justice throughout the realm,—a gay young cavalier never called to the bar, and chiefly famed for his handsome person, his taste in dress, and his skill in dancing,—Sir CHRISTOPHER HATTON!!!

In the long reign of Elizabeth, no domestic occurrence seems so strange as this appointment;—but, with the exception of her choice of Burghley for her minister, she was much influenced in the selection of persons for high employment by personal favour; and on the same principle that Leicester was sent to command in the Low Countries, and Essex in Ireland, Hatton was placed at the head of the magistracy of the realm,—because he was her lover. Burghley had resisted

\* *Iudem nobiles viri dictum magnum sigillum secum portabant usque in Cameram Consilii ibidem et permittebant sigillari omnes tales literas patentes commissiones et brevia antedicta et sigillacione finita sigillum predictum in baga de coreo albo in qua antea includebatur reponi preceperunt et cum sigillis eorum muniri fecerunt et sic sigillum predictum ad presenciam sue Majestatis in baga de velueto rubeo insigniis sue Majestatis decorata tulebant et in manus sue Majestatis redeliberabant.*

—R. Cl. 29 Eliz.

† Camden says there was a speculation likewise at Court that Edward Earl of Rutland, whom he describes as “juris scientia et omni politiori eruditione ornatus,” would be appointed Chancellor had he not suddenly died; but this seems exceedingly improbable, for he could have had no professional experience, and he was not a personal favourite.—Camden, *Hist. El.*, 1475

her propensity on this occasion as far as his own safety would permit; but considering that Hatton could never be dangerous to him as a rival for power, and that this freak would only be injurious to the administration of justice, which ministers often sacrifice to political convenience, he yielded, and joined in the effort to give *eclat* to the installation of the new Chancellor.—We must proceed to trace the origin and history of this minion, that we may account for his extraordinary elevation.

He was born in the year 1539, being the third and youngest son of William Hatton, Esq., of Holdenby, in Northamptonshire, a family originally from Cheshire, of considerable antiquity, but very moderate wealth. Although he never left home till he was sent to the University, he was early remarkable for sprightliness and vivacity as well as comeliness; but he was idle and volatile, and he imbibed with difficulty, from a domestic tutor, the first rudiments of knowledge. He already showed the vanity which always distinguished him; and being much spoiled as the child of his father's old age, he succeeded in prevailing upon the indulgent Squire to enter him a gentleman-commoner at St. Mary Hall, Oxford, although the additional expense thus incurred could ill be afforded.

While at college, he was exceedingly popular with his companions; but he spent much more time in fencing and archery than in perusing Aristotle and Aquinas, and from the fear of being *plucked*, he left Oxford without trying for a degree.

Being intended for the bar, he was now transferred to the Inner Temple; but it was said, that "he rather took a bait than made a meal at the inns of court, whilst he studied the laws therein."\* He was, in truth, a noted roisterer and swash buckler, hearing the chimes at midnight, knowing were the *bona robas* were; and sometimes lying all night in the Windmill, in St. George's Fields.† But while he spent much of his time in dicing and gallantry, there were two amusements to which he particularly devoted himself, and which laid the foundation of his future fortune. The first was *dancing*, which he studied under the best masters, and in which he excelled beyond any man of his time. The other was the *stage*; he constantly frequented the theatres, which, although Shakspeare was still a boy at Stratford-on-Avon, were beginning to flourish,—and he himself used to assist in writing masques, and took a part in performing them.

\* When he became a great man, his flatterers pretended that he never meant to make the law a profession, and that he was sent to an inn of court merely to finish his education in the mixed society of young men of business and pleasure there to be met with; but there can be no doubt that, as a younger brother of a poor family, it was intended that he should earn his bread by "a knowledge of good pleading in actions real and personal;" and the news of the manner in which he dedicated himself to dancing, which made his fortune, must have caused heavy hearts under the paternal roof in Northamptonshire.

† See Justice Shallow's career at the inns of court, Second Part Henry IV. act iii sc. 2.

He was one of five students of the Inner Temple who wrote a play entitled "Tancred and Gismund," which, in the year 1568, was acted, by that Society, before the Queen.\*

\* This piece, though composed and acted in 1568, was not printed till 1592. It then came out thus entitled: "The *Tragedie of TANCRED and GISMUND*, compiled by the gentlemen of the *Inner Temple*, and by them presented before her MAJESTIE. Newly revived, and polished according to the decorum of these daies, by R. W." This edition was by Robert Wilmot, who is often called the author of the tragedy, but there is no doubt that the five students contributed each an act. The future Lord Chancellor's contribution was the fourth act, at the end of which there is this notice, "Composuit Chr. Hatton." This edition is so scarce, and so much valued by book collectors, that a defective copy of it sells for ten guineas. There is one in the British Museum which belonged to Garrick.

The story which has been the subject of so many poems and dramas is taken from the first novel of the fourth day of the Decameron. I am afraid that Hatton could not read Boccaccio in the original, but he might find this fable in "Paynter's Collection," and in an old ballad printed by Wynkin de Worde in 1582.

Sir Christopher's contribution being hitherto the only tragic effort of a Lord Chancellor, I will offer the reader as a specimen the fourth scene of the fourth act, between Tancred and Guiozard, after the King has discovered the guilty loves of the Count and Sigismunda.

"*Tancr.* And durst thou, villain, dare to undermine  
Our daughter's chamber? Durst thy shameless face  
Be bold to kiss her? th' rest we wilt conceal.  
Wherefore content thee that we are resolv'd  
That thy just death, with thine effus'd blood,  
Shall cool the heat and choler of our mood."

"*Guioz.* My Lord the King, neither do I mislike  
Your sentence, nor do your smoaking sighs,  
Reach'd from the entrails of your boiling heart,  
Disturb the quiet of my calmed thoughts.  
Such is the force and endless might of love,  
As never shall the dread of carrión death,  
That hath envy'd our joys, invade my breast,  
But unto her my love exceeds compare;  
Then this hath been my fault for which I joy,  
That in the greatest lust of all my life  
I shall submit for her sake to endure  
The pangs of death. Oh, mighty lord of love,  
Strengthen thy vassal boldly to receive  
Large wounds into this body for her sake;  
Then use my life or death, my Lord and King,  
For your relief to ease your grieved soul;  
Knowing by death I shall bewray the truth  
Of that fond heart, which living was her own,  
And died alive for her that lived mine."

"*Tancr.* Thine, Palurin? What! lives my daughter thine?  
Traytor, thou wrong'st me, for she liveth mine.  
Rather I wish ten thousand sundry deaths  
Than I to live and see my daughter thine."

[*The King hasteth into his palace.*]

"*Guioz. (solus.)* O thou, great God, who from thy highest throne  
Hast stooped down and felt the force of love,

He did not act in this piece himself but his fashionable accomplishments and agreeable manners introducing him into the best society, he at last had a part assigned him in a masque at Court, which gave him a very favourable opportunity to show off his fine person, his elegant taste for dress, and his unrivalled profiency in dancing.

The tender heart of Elizabeth was at once touched by his athletic frame, manly beauty, and graceful air; and she openly expressed her high admiration of his dancing. An offer was instantly made by her to admit him of the band of gentlemen pensioners. He expressed great willingness to renounce all his prospects in the profession of the law, but informed her that he had incurred debts which were beginning to be troublesome to him. She advanced him money to pay them off—at the same time (*more suo*) taking a bond and statute merchant to repay her when he should be of ability. He little thought he should ever hear of these securities, which afterwards were supposed to be the cause of his death;—and before he had even reached the degree of apprentice or utter barrister, he joyfully transferred himself from his dull chambers in the Temple to a gay apartment assigned him in the Palace, near the Queen's. He was henceforth the reigning favourite, and his official promotion was rapid. He was successively made a gentleman of the Queen's privy chamber, captain of the band of gentlemen pensioners (her body guard), Vice-chamberlain, and a member of the Privy Council. This delight of the Queen to honour him caused much envy and some scandal. Complaints were uttered, that under the existing government nothing could be obtained by any others than “dancers and carpet knights,—such as the Earl of Lincoln and Master Hatton, who were admitted to the Queen's privy chamber.”\* Sir John Perrot, a stout soldier,

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Bend gentle ears unto the woful moan  
 Of me, poor wretch, to grant that I require;  
 Help to persuade the same, great God, that he  
 So far remit his might, and slack his fire  
 From my dear lady's kindled heart, that she  
 May hear my deeth without her hurt. Let not  
 Her face, wherein there is as clear a light  
 As in the rising moon, let not her cheeks  
 As red as is the party-colour'd rose,  
 Be paled with the news hereof; and so  
 I yield myself, my silly soul, and all,  
 To him, for her for whom my death shall show  
 I liv'd; and as I liv'd I dy'd, her thrall.”

Act iv. sc. 4.

There is a chorus somewhat after the Greek fashion, and the tragedy is a curious illustration of the state of the drama in England in the beginning of Queen Elizabeth's reign; although we shall in vain look in it for such felicity of thought and harmony of numbers as in Dryden's exquisite poem of “Sigismunda and Guisardo.”

\* See the examination of Berners and Mather, apprehended as implicated in the conspiracy of the Duke of Norfolk.—Murdin, 124—210. Camden, 254.

could not conceal his indignation, when he found himself neglected for one who he was used to say “came into Court *by the galliard*, coming thither as a private gentleman of the Inns of Court in a masque, and for his activity and person, which was tall and proportionable taken into favour.”\* The Vice-chamberlain was particularly obnoxious to the Puritans; and Burchet, a student of the Middle Temple, a leader of this sect, in a fit of religious enthusiasm, resolved to kill him, but by mistake murdered, first, in the public street Hawkins an officer, and then Longworth, the keeper of a house in which he was confined.†

But Christopher now began to feel the stings of ambition as well as love; and although uneducated,—from his natural shrewdness and ready wit, he was by no means inapt for business. He was returned to parliament, and soon gained a considerable position in the Commons, often fonder of what is showy than what is solid,—insomuch, that when Burghley was made a peer, the Vice-chamberlain represented the government in the lower House, and with the assistance of the Speaker, managed it according to the Queen’s directions. When Wentworth, the Puritan, made his famous speech which gave such offence to the courtiers, Hatton moved his commitment to the Tower, and afterwards brought down the message from her majesty, that “whereas a member had uttered divers offensive matters against her, for which he had been imprisoned, yet she was pleased to remit her justly occasioned displeasure, and to refer his enlargement to the House,”—whereupon, after an admonition from the Speaker, he was set at liberty.‡

Himself a lover of the Queen, he eagerly took a part in breaking [A. D. 1575.] off the negotiation for her marriage with the Duke of Anjou. He was actually present at the interview when she renounced that Prince; and he is represented as having assisted her in answering the reproaches of her discarded suitor by a speech which few would have used the liberty to make in her presence; for he pointed out the disparity of age, and [A. D. 1581.] the improbability of her having issue if she were to marry. The Duke declared that the women of England were as changeable and capricious as the waves which encircled their island.§

The only very serious suspicion ever thrown upon Hatton’s conduct arose out of his connection with the death of Henry Percy, Earl of Northumberland. After this nobleman had been long confined in the Tower, without being brought to trial, the Lieutenant received an order to remove the Earl’s keeper, and to substitute for him a servant of Sir Christopher Hatton. The same night the prisoner was found

\* Naunton.

† He was evidently insane; but in those days they did not stand on such nice-ties; he was convicted and executed.—Camden, 284.

‡ 1 Parl. Hist. 802.

§ Camden, 375.

dead in his bed, having been shot through the heart with three slugs. A verdict of *felo de se* being returned by the coroner's jury, the subject was taken up in the Star Chamber, and there Sir Christopher and other members of the Court delivered harangues to prove that the deceased had been guilty of treason, and that to escape a public trial and conviction, with the forfeiture of his houses and estate, he had put an end to his existence. Yet sinister inferences were drawn by the multitude from the change of his Keeper, the difficulty of conveying fire arms to a prisoner in the Tower, and the eagerness of the government to have him found guilty of suicide.

Hatton took an open and undisguised part in the proceedings against the Queen of Scots. He began with a piece of hypocrisy, which, considering his notoriously profligate life, must have a little shocked the religious feelings of his audience, though none of them ventured to oppose him. Rising in his place in the House of Commons, and detailing the plots which he alleged to be concerted against Elizabeth and the Protestant faith, he moved, "That besides the rendering of our most humble and loyal thanks unto her Highness, we do, being now assembled, forthwith join our hearts and minds together in most humble and earnest prayer unto Almighty God for the long continuance of the most prosperous preservation of her Majesty, with most due and thankful acknowledgment of his infinite benefits and blessings poured upon this whole realm through the mediation of her Highness's ministry under him." This being carried unanimously, the gentleman of her Highness's Privy Chamber, acting the part of Chaplain to the House, pulled a form of supplication from his pocket to the above effect, and all the members present, dropping down on their knees with seeming devotion, joined with him in his litany.\*

He took a leading part in passing through the House of Commons the bill under which Mary was to be tried.†

He sat on the bench as a commissioner at the preliminary trials of Babington, Savage, Ballard, Abington, Tilney, and the other conspirators. Savage's confession being proved,—with a view to the use to be made of it as evidence against Mary, Lord Commissioner Hatton thus addressed him:—"Savage, I must ask thee one question: Was not all this willingly and voluntarily confessed by thyself without menacing, without torture, and without offer of any torture?" The poor wretch, in the vain hope of mercy, eagerly replied, "Yes."

Although the two Chief Justices, May and Anderson, and Chief Baron Manwood, were present, Hatton took the lead in the conduct of the trial; and when it was getting late in the evening observed, they should hardly be able to finish the business if they sat up all night, and ordered the Court to be adjourned till seven o'clock next morning.‡

He then strongly urged Ballard to a full confession, saying to him, "O, Ballard, Ballard, what hast thou done? A sort of brave youths,

\* 1 Parl. Hist. 828.

† 27 Eliz. c. 1.

‡ 1 St. Tr. 1127. 1131.

endowed with good gifts, by thy inducements hast thou brought to their utter destruction and confusion." The young man exclaiming, "Howbeit, say what you will, I will say no more!" Hatton added, "Nay, Ballard, you must say more, and shall say more, for you must not commit high treasons and then huddle them up. But is this thy *Religio Catholica?* Nay, rather it is *diabolica.*"

He then took in hand Barnewell, another prisoner, administering to him this string of interrogatories. "O Barnewell, Barnewell, didst not thou come to Richmond, and when her Majesty walked abroad, didst not thou there view her and all her company what weapons they had, and how they walked alone? and didst traverse the ground, and thereupon coming back to London didst make relation to Babington, how it was a most easy matter to kill her Majesty, and what thou hadst seen and done at the Court? Yes, I know thou didst so." Taking all this for confessed, he then, without being sworn, gives some evidence himself. "Nay, I can assure thee, moreover, and it is most true which I say, that her Majesty did know that thou didst come to that end, and she did see and mark thee how thou didst view her and her company; but had it been known to some there as well as unto her, thou hadst never brought news to Babington. Such is the magnanimity of our Sovereign, which God grant be not overmuch in not fearing such traitors as thou art."

The sentence on the prisoner was pronounced by Lord Chief Justice Anderson, but this was prefaced by "an excellent good speech from Sir Christopher Hatton, showing how, stirred up by wicked priests, the ministers of the Pope, they had conspired to murder the Queen's Majesty, to deliver the Queen of Scots"—(charges which were proved);—"to sack the city of London; to rob and destroy all the wealthy subjects of the realm; to kill divers of the Privy Council; to set fire to all the Queen's ships, and to clog all the great ordnance"—(charges unsupported by any evidence). He concluded by pointing out the falsehood of a book recently printed at Rome, and made by the Papists, wherein they affirm that "the English Catholics who suffer for religion be lapped in bear-skins and bated to death with dogs."

But although he had very roughly refused a prisoner's request to have a pair of writing tables to set down what was alleged against him,—another after sentence of death, praying that his debts might be satisfied out of his property, the Vice-chamberlain good naturedly asked the amount; and being told that six angels would be sufficient, he said, "Then I promise thee it shall be paid."

He was next engaged in the very delicate task of interrogating Nau and Curle, Mary's secretaries, whose examinations were to be used as the chief evidence against their mistress. He was prepared for this by a letter from Burghley, saying "they wold yeld soewhat to confirm ther mystriss, if they war persuaded that themselves might scape, and the blow fall upon ther M<sup>r</sup>. betwixt hir head and shoulders."\* Most, strangely, the original letter, supposed to esta-

\* Burghley to Hatton, Sept. 4, 1586,—a sportive anticipation of Mary's fate, probably written to be shown to Elizabeth.

blish Mary's complicity, was not shown to them, and "an abstract of the principal points of it" being read, they were required to say, upon oath, whether they could not recall these points to their recollection as having been contained in it.\*

When the scene shifted to Fotheringay Castle, we have seen that it was chiefly by the artful persuasion of Hatton, named one of her Judges, that Mary was induced to depart from her resolution to deny the jurisdiction of the Court appointed to try her.† When the trial began he left the conduct of it to Burghley and the other counsel for the Crown, silently enjoying the effect of the confessions and examinations which he had so dexterously prepared.

But when judgment had been given he delivered a violent speech in the House of Commons, urging the House to petition that it might immediately be carried into execution. "He explained, at great length, the practices and attempts caused and procured by the Queen of Scots, tending to the overthrow of the true and sincere religion established in this realm; yea, and withal (which his heart quaked and trembled to utter and think on), the death and destruction of the Queen's most sacred person, to the utter desolation of this most noble realm of England. He therefore thought it good, for his part, that speedy consultation be had by this House for the cutting off this great delinquent by due course of justice; concluding with these words of Scripture—*Ne pereat Israel, pereat Absolom.*"

Hatton afterwards brought down a message, "that her Highness, moved by some commiseration for the Scottish Queen in respect of her former dignity and great [Nov. 14, 1586.] fortunes in her younger years, her nearness of kindred to her Majesty, and also of her sex, could be well pleased to forbear taking of her blood, if by any other means, to be devised by the great Council of the realm, the safety of her Majesty's person and government might otherwise be preserved. But herein she left them, nevertheless, to their own free liberty and disposition." He concluded his speech by moving a resolution, which was carried unanimously, "That no other way, device, or means whatsoever could or can possibly be found or imagined, that such safety can in anywise be had so long as the said Queen of Scots doth or shall live."‡

The zealous Vice-chamberlain was subsequently instrumental in causing the death-warrant to be sent off to be executed. Being informed by Secretary Davison that the Great Seal was appended to it, and that the Queen had pretended to chide him for his precipitancy, he immediately went to Burghley, and they called the meeting of the Council, at which it was resolved that, the forms of law having been all duly observed, it was their duty, without giving further needless trouble to her Majesty, to take all the remaining responsibility on themselves.

When the news arrived of the close of Mary's sufferings at Fother-

\* Ellis, iii. 5.

† Ante, p. 125.

‡ 1 Parl. Hist. 844.

ingay, Hatton was of course a marked object of Elizabeth's assumed indignation, and he was ordered, with the other Councillors who had concurred with him, to answer for their misconduct in the Star Chamber; but Secretary Davison, according to the preconcerted plan, being made the only victim, all the others were speedily pardoned, and the Vice-chamberlain, for his recent services, was in higher favour than ever. Balls and masques were resumed, and being still the handsomest man, and the best drest, and the most gallant, and the best dancer at Court,—he gained new consequence, pretending to become an orator and statesman.

It was at this conjuncture that Lord Chancellor Bromley died, and [APRIL 29, 1587.] the Great Seal was to be disposed of. Love and gratitude filled the mind of Elizabeth, and after some misgivings,—whether he who would have made a most excellent Lord Chamberlain, was exactly fitted for the duties of Lord Chancellor,—she resolved at all hazards to appoint him. The intention, however, was kept a profound secret from all except Burghley, till the time when the deed was done. The Court then lay at the Archbishop of Canterbury's Palace, at Croydon, and there, in a walk near her private chamber, the Queen, in the midst of a numerous circle of nobles and courtiers, taking the Seal in its velvet bag, delivered it to her Vice-chamberlain, ordered him before the assembled company to seal a writ of subpoena with it, and then declared that he was to hold it as Lord Chancellor of England.\*

Some of the courtiers at first thought that this ceremony was a piece of wicked pleasantry on the part of the Queen; but when it was seen that she was serious, all joined in congratulating the new Lord Chancellor, and expressing satisfaction that her Majesty had been emancipated from the prejudice that a musty old lawyer only was fit to preside in the Chancery, whereas that Court being governed not by the strict rules of law, but by natural equity, justice would be much better administered there by a gentleman of plain good sense and knowledge of the world.

\* "Memdem qd die Sabbati, &c. (April 29. 29 Eliz.) Mag. Sigill. in custodia Dne Regine existens apud Croydon in Com. Sarr sua serenissima Majestas ibidem residens ad beneplum suum in Palacio Reverendissimi in Xto Patris Johannis Cantuar, &c. ac ibidem similiiter in privato ambulatorio juxta privatam cameram sue Majestatis sua serenissima Majestas essend. presens circa horam quartam post meridiem ejusdem dici ac in presencia dicti reverendissimi Patris, &c. &c. Sigill. Mag. prdm jacens in fenestra in fine dicti ambulatorii in baga de velueto rubeo inclusa sua serenissima Majestas accepit in manibus suis et tulebat secum ad medium ejusdem ambulatorii ac ibidem in presencia prda dicto Egregio Viro Xtofero Hatton militi tradidit et iterum immediate e manibus dicti egregii viri recipiebat et extrahi jubebat et nudari." Then comes the sealing of the subpoena, with the restoration of the Seal to the bag. "Et sigill. prdm in bagam predictam de velueto rubeo impositum dicta sacra Majestas regia dicto nobili viro Xtofero Hatton militi in presencia prda redeliberabat Ipsaque Xtoferum Hatton militem Dnm Cancellarium Anglie adiunc et ibidem fecit ordinavit et constituit Habendam," &c. &c. — Rot. Cl. 29 Eliz. p. 24.

Very different were the reasonings in Westminster Hall and the Inns of Court when the news of Hatton's appointment arrived from Croydon. "The gownsmen grudging hereat, conceived his advancement their injury, — that one not thoroughly bred to the laws should be preferred to the place. They said, how could he cure diseases unacquainted with their causes, who might easily mistake the justice of the common law for rigour — not knowing the true reason thereof."\*

Considering that the Great Seal had now been held for thirty years successively by eminent lawyers who had established a procedure, and laid down rules which were well understood, and had been steadily adhered to, the prospect must have been very alarming of practising before a Chancellor, who, when he was appointed, could hardly know the distinction between a subpoena and a latitat ; for surely no greater misfortune can befall an advocate than to lose a consummate Judge whose decisions might be confidently anticipated by the initiated, and to be obliged to practise under an incompetent successor, before whom no case is safe and no case is desperate.

Meetings of the bar were held, and it was resolved by many Serjeants and Apprentices that they would not plead before the new Chancellor ; but a few who looked eagerly for advancement dissented. The Chancellor himself was determined to brave the storm, and Elizabeth and all her ministers expressed a determination to stand by him.

The 3d of May was the first day of Trinity term, and the great officers of state, and the heads of the law, were entertained at breakfast at the Chancellor's mansion in Ely Place, Holborn. From thence there was a procession to Westminster Hall, exceeding in magnificence any thing seen on a similar occasion since the time of Cardinal Wolsey, whose crosses, pillars, and pole-axes some old men could still remember. First went forty gentlemen of the Chancellor's household all in the same livery, with chains of gold about their necks. They were followed by divers pensioners and gentlemen of the Queen's Court upon splendid foot clothes ; then came the Masters in Chancery and the officers of the Court ; next rode the Lord Chancellor on a palfrey richly caparisoned, having on his right hand Burghley, the Lord Treasurer, and on his left the Earl of Leicester ; after whom came many of the nobility, riding two and two ; then all the Judges in their robes and coifs, with Serjeants and Apprentices ; and last of all many Knights and a great troop of their retinue.†

\* Naunton. Camden's account of the grumbling of the leaders of the bar is likewise very striking. "Christophorus vero Hattonus, florentissima apud Principem gratia, suffectus erat ex aula Cancellarius, *quod juris Anglii consultissimi per moleste iuterunt*. Illi enim ex quo Ecclesiastici de gradu dejecti, hunc magistratum, summum togatae dignitatis culmen, viris ecclesiasticis et nobilibus plerunque olim delatum, magna cum sequitatis et prudentiae laude gesserant." — *Camd. Eliz. vol. i. 475.*

† Stowe, *Eliz. 741.*

This was a much more gallant show than the line of close carriages now to be seen moving from the Chancellor's levee on the first day of term; though our predecessors must have been in an uncomfortable plight when it rained during their march along the Strand to Charing, and from thence to Westminster; and though there were many traditional stories of the misfortunes which had befallen the Judges on their March, notwithstanding their skill in horsemanship, from riding their circuits.\*

It is said that Hatton was received in the Court of Chancery with cold and silent disdain. Nevertheless there was, from the first, some little business brought on before him. The Attorney and Solicitor General, lest they should themselves be dismissed, were obliged, however discontented they might be, to appear to countenance him. He made no public complaint of his reception, and gradually gained ground by his great courtesy and sweetness, — to say nothing of the good dinners and excellent sack for which he was soon famous.

It would appear that there was much public curiosity to see “the dancing Chancellor” seated upon his tribunal, and the crowds of strangers in the Court of Chancery were so great, that there came out an order “by the Right Honourable Sir Christopher Hatton, Knight of the most noble Order of the Garter, and Lord Chancellor of England,” in these words:—“For the avoydinge of suche great numbers of suitors and others as doe daylye pester the Courte in the tyme of sittinge, by reason whereof heretofore yt hath manye tymes happened that the due reverence and sylence which ought to be kepte and ob-served in that honourable courte hathe bene undeutifully neglected, and contrayewise muche unmannerlye and unseemlye behavour and noise hath bene there used to the hinderauance of the due hearinge of such matters and causes as were there to be handled, and to the great derogacion of the honour of this courte and due reverence belonging to the same—.” Then follow regulations, by which none were to come into court but counsel, attorneys, officers and their clerks, and parties — who were “to continue soe longe as the cause shal be in hearinge and no longer, and all other suytors whatsoeuer (excepte nobleman and suche as be of her Majesties Privy Counsell) were to stand without the courte, and not suffered to come in without special licens.”†

He was quite at home when presiding in the Star Chamber, where he had before been accustomed to sit as a Privy Councillor, and he had the Chiefs of the common law to assist him. To this Court, according to usage, he dedicated Wednesdays and Fridays. On other

\* The last which has reached us is that of Mr. Justice Twisden, who was thrown from his horse near Charing Cross, while attending Lord Chancellor Shafesbury.

† Reg. Lib. B. 31 & 32 (Eliz. 1589, p. 498) I once saw the Court of Chancery crowded and overflowing, like Drury Lane when Mrs. Siddons appeared as Lady Macbeth; but it was to hear Sheridan address Lord Eldon. This was shortly before the death of Thurlow; he said, “I am told that Scott has been acting plays in Lincoln’s-Inn-Hall.”

days he sat for equity business in the Court of Chancery,— in Westminster Hall in the mornings, and in his own house in the afternoons.\* He made an order that four Masters in Chancery should always attend and sit on the bench with him in Court, and two in his own house.†

He was exceedingly cautious, “not venturing to wade beyond the shallow margin of equity, where he could distinctly see the bottom.” He always took time to consider in cases of any difficulty; and in these he was guided by the advice of one Sir Richard Swale, described as his “servant-friend,” who was a Doctor of the Civil Law, and a clerk in the Chancery, and well skilled in all the practice and doctrines of the Court.

By these means Lord Chancellor Hatton contrived to get on marvellously well; and though suitors might grumble, as well as their counsel, the public took part with him, and talked with contempt of “the sullen serjeants,” who at first refused to plead before him. All were dazzled with the splendour of his establishment; and it was said that he made up for his want of law by his constant desire to do what was just.‡ But the more judicious grieved; and, in spite of all his caution and good intentions, he committed absurd blunders, and sometimes did injustice.§

\* Morning seems to have been from eight to eleven, and afternoon from two to five; the intermediate space being allowed for dinner and recreation.

† *Ordo Curie. Decimo viij<sup>o</sup>. die Aprilis Anno Regni Elizabeth Reginæ xxx<sup>o</sup>.*

“The R<sup>t</sup> Ho. Sir Christopher Hatton, Knight, Lo. Chauncelor of England, having bene enformed that of late yeres the Courte of Chauncery hathene for the most parte unfurnished of such Masters of the Chauncery as are in ordynary and have her Ma<sup>t</sup> fee to attende there, whereby the dignitey of that honorable courte hath bene in some sort blemished, and the same destitute of such assistantes and advice of theirs as were meete and necessary. For remedy thereof the said Lo. Chauncelor dothe order that fower of the said ordynary Masters of Chauncery shall dayly in their course attende at or in the same Courte of Chauncery upon the benche there, unles some speciaill cause shall draw them from thence, and then he or they whose course it shalbe,<sup>1</sup> to procure some other of the ordynary Masters of this Courte to supply their places in their absence. And also the Lo. Chauncelor dothe also farther order that two of the said Masters being in ordynary, shall lyke- wise dayly attende on every Monday, Tuyday, and Thursday, in the afternoones, at the said Lo. Chauncelor’s howse, to assist his Lop, in such causes as there shalbe opened and heard before him in every terme.” The order then makes some regulations about fees, “secluding all Extraordinary Masters within three myles compasse of the City of London, and suburbs of the same, and in all other places where the said ordynary Masters shalbe from doinge any manner of actes or exercising any authorty belonging to the offyce and cleeve to the same.”

‡ “— *Splendidissime omnium quos vidimus gessit et quod ex juris scientia defuit, æquitate supplere studuit.*” — Camden.

§ There was one ceremony which he must have performed with peculiar grace,— installing a Master, 16 May, 1587. “This present day Richard Swale, gentleman, Doctor of the Civil Law, was placed as a Master of the Chancery in ordi-

<sup>1</sup> It was not yet settled what particles and parts of the auxiliary verbe should be used as separate words.

The attention of the nation was soon taken from all such matters [JULY, 1588.] by the danger which threatened the religion and liberties of the country. The INVINCIBLE ARMADA was now afloat; and Elizabeth was reviewing her army at Tilbury. The Chancellor attended her; and, if the Spaniards had landed, was ready to have fought valiantly by her side.\*

English bravery, assisted by the elements, having swept from the seas the armament which was to overpower and to subjugate [Nov. 1588.] England, a parliament was called; and, on the first day of the session, the Queen being on the throne, Lord Chancellor Hatton eloquently opened to the two Houses the cause of the summons: he told them "that her Majesty had made it her constant study, from the very beginning of her reign to this time, to preserve peace, not only at home but also abroad. That she had given no occasion to the many princes about her to invade her dominions, nor had taken arms to revenge the many injuries which others had inflicted upon her. Neither the infant state of Scotland, nor the treachery of France, nor the division of her enemies, nor the frequent solicitations of the Dutch, nor all these things combined, could move her to war. And when she heard that mighty preparations were making against her and her Kingdom, she chose rather to propose peace than to cast all hopes of it aside; for she sent a set of grave, prudent, and noble persons as her ambassadors to treat of it. Which, while they were labouring to effect, behold a vast navy of Spanish ships were seen on our English coasts; such a navy, that, for numbers and greatness of the ships, for quantity of arms and military forces, and for all kinds of necessary stores, were never seen to float on the ocean before. But God Almighty, her Majesty's hope, defender, and preserver, rendered this vast armada of her enemies vain and useless. For the British navy, by far inferior in numbers and strength, happily attacked

nary in the room of Mr. Doctor Barkeley deceased, by the Right Honourable Sir Christopher Hatton, Knight, Lord Chancellor of England; and his Lordship did put on the said Mr. Swale's Cap, &c."—Reg. Lib. B. p. 492. A hat being substituted for the cap, the ceremony remained down to Lord Brougham's time.

\* It is upon this occasion that the famous dialogue is supposed to have passed between him and Sir Walter Raleigh:—

"Sir Christ. Hat.      True, gallant Raleigh;  
But O, thou champion of thy country's fame,  
There is a question which I still must ask,  
A question which I never ask'd before,  
What mean these mighty armaments,  
This general muster and this throng of chiefs?"

"Sir Walter R.      O most accomplish'd Christopher, I find  
Thy stanch sagacity still tracks the future  
In the fresh print of the o'er taken past.  
You know, my friend, scarce two revolving suns  
And three revolving moons have clos'd their course,  
Since haughty Philip, in despite of peace,  
With hostile hand has struck at England's trade."

once and again those huge raised-up rocks and mountains of ships, and, at the third conflict, so dispersed, shattered, and disabled them, that, never thinking to renew the fight, they fled for it, and took a long course hitherto unheard of; for they steered round Scotland, Ireland, and the most northern regions, and by those means hoped to regain the Spanish coasts. But what shipwrecks, they suffered,—what hardships, they bore,—how many ships, soldiers, and seamen they lost, neither can they yet know, nor we for certain learn. But do you not imagine that they are ardently studious of revenge? and that they will employ the power and riches of Spain to accomplish it? Know you not the pride, fury, and bitterness of the Spaniard against you? Yes: behold the great cause of summoning this parliament, that, in this full assembly of the wisest and most prudent persons of this kingdom, a diligent preparation may be made, that forces, arms, and money may be in readiness, and that our navy, our greatest bulwark, may be repaired, manned, and fitted out for our protection and safeguard.”\*

Sir Christopher was now installed Knight of the Garter, (being the third Chancellor on whom this honour was conferred) and he was at the height of his greatness. But although he was never turned out of Office, he met with much mortification before his death. Camden represents that his appointment was maliciously suggested to the Queen by his rivals in her good graces, that by his absence from Court, and the troublesome discharge of so great a place, which they thought him not able to undergo, his favour with the Queen might flag. They were mistaken if they supposed that he would be utterly disgraced by the incompetent manner in which he must discharge his judicial duties; but they calculated rightly in anticipating that, prevented from showing her the devoted attention with which he had hitherto ever cultivated her as an admirer of her person as well as a member of her government, he would gradually lose his interest in her heart. The Earl of Leicester, who had occasionally been superseded by Hatton, now completely regained his ascendancy, and he prevailed upon her to create for him the new office of “Lord Lieutenant of England and Ireland,” which would have conferred upon him almost royal authority throughout the empire. A warrant had been made out for this appointment; but the Chancellor, on constitutional and personal grounds, highly disapproved of it. He ventured to remonstrate against it, and he induced Burghley to join with him in trying to convince the Queen of the impolicy of the measure. Without any open rupture with the Queen, the Chancellor contrived still to withhold the Great Seal from the patent,—when the man who had so long swayed her inclinations and had compromised her reputation, was opportunely seized with a violent disorder which,

\* Taken from Lords’ Journal. See 1 Parl. Hist. 353. I must say that this speech of “the dancing Chancellor” is in better taste than any performance of his predecessors, either ecclesiastical or legal.

whether it arose from natural causes, or from the anguish of disappointed ambition, or from poison administered by his wife and her paramour, quickly terminated his existence.

The Queen's extravagant purpose was thus concealed from the public, and after a plentiful effusion of tears in memory of her worthless favourite, tranquillity was restored to the Court. Had Hatton been still Vice-chamberlain and Gentleman of the Privy Chamber,—at leisure to masque it as in former days, he probably would now have filled, without dispute, the vacancy which Leicester's death created; but while he was sitting in the Star Chamber and in the Court of Chancery, and listening to applications at his private house for injunctions in cases of great emergency, and consulting anxiously with Dr. Swale how he should dispose of petitions, and what decrees were to be pronounced in the causes which he had heard, (besides, that he was now somewhat declining into the vale of years,)—the young Earl of Essex, not yet twenty-one, was sighing at her feet, and by his songs and his tilting, by his spirit and address, by his flowing locks and unrazored lip, had captivated her affections, and had been rapidly promoted to be Master of the Horse, Captain General of the Cavalry, a Knight of the Garter, and Prime Favourite. The spoiled schoolboy, tired of the fondness of “the old woman,” as he called her, had fled the Court and clandestinely joined the expedition fitted out under Sir Francis Drake, for the coast of Spain, to avenge on Philip the insults of the Armada. Still Hatton was too much occupied to avail himself of this conjuncture, and he had the deep mortification of finding himself, on his occasional visits to Whitehall or St. James's, to Richmond or Greenwich, entirely neglected and slighted for younger men.

On one of these occasions he saw a handsome youth from Devonshire throw his brave silken cloak into the mire for a foot-cloth to the Queen, and instantly taken into favour by her, and appointed to the post which he himself had once held, and which he would now have been delighted to exchange for the Great Seal. Sir Walter Raleigh had the special care of her person as Captain of her band of gentlemen pensioners.

On another occasion, while he was holding the Great Seal in its red velvet bag, at a tilting match to which he had been invited during the vacation, he was present when the Queen singled out Charles Blount, the second son of Lord Mountjoy, then a student in the Inner Temple, expressed her approbation of his looks and agility, presented her hand for him to kiss, and sent him a chess queen of gold as a token which he openly bound to his arm with a crimson riband.\*

These youths could not have any serious apprehensions from the

\* This incident afterwards gave rise to a duel between Blount and the Earl of Essex, to the great delight of the Queen, who said “that her beauty had been the object of their quarrel.” Had the Chancellor been the challenger, he might have recovered his lost ground.

rivalry of the Chancellor, but they combined with other more experienced courtiers, who marked his declining favour, to set the Queen against him, and there was a general disposition at Court to vex and annoy him. We may remember that the Queen had lent a sum of money to free him from the embarrassments occasioned by his youthful extravagance, and he had since become farther indebted to her in respect of certain crown rents he had received, for which he was liable to account. Perhaps without any prompting (for she was always very mean in money concerns), she now desired that all these debts should be discharged, and she represented to him that as he had been for two or three years in possession of the most lucrative office in her gift, he could no longer plead poverty. He acknowledged the debt and her Majesty's forbearance, but represented his total inability yet to discharge it on account of the great charges brought upon him by the manner in which his installation had been conducted for her Majesty's honour, and by reason of his having confined himself strictly to the ancient fees, which, from the increased expense of living, had become very inadequate. He did not ask her to forgive him the debt, but he earnestly implored that further time might be allowed him for its payment. She was inexorable, and believing that this excuse was a mere pretence for cheating her, she directed her Attorney and Solicitor General to institute legal proceedings against him on his bond and statute merchant, under which the whole of his goods and lands might have been seized, and his person would have been liable to imprisonment.

All contemporary accounts agree that the Queen's neglect and cruelty had such an effect upon his spirits that he died of a broken heart. In Trinity term, 1591, it was publicly observed that he had lost his gaiety and good looks. He did not rally during the long vacation, and when Michaelmas term came round he was confined to his bed. His sad condition being related to Elizabeth, all her former fondness for him revived, and she herself hurried to his house in Ely Place with cordial broths, in the hope of restoring him. These she warmed and offered him with her own hand, while he lay in bed, adding many soothing expressions, and bidding him live for her sake. "But," he said, "all will not do; no pulleys will draw up a heart once cast down, though a Queen herself should set her hand thereunto." [A. D. 1591.] He died in the evening Friday the 21st of November, in the 54th year of his age.\*

He was immediately compared to Jonah's gourd, and described as "a

\* Camden, without descending into particulars which he considered inconsistent with the dignity of history, and although showing his usual tenderness for the reputation of Elizabeth, confirms the general account we have of the death of Hatton. Speaking of the severe proclamation against Catholics which it was supposed that the Chancellor condemned, he says, "Verum obierat Hattonus pridie quam hoc edictum publicatum ex diabete et animi moerore, quod Regina ingentem pecuniam ex decimis et primitiis quibus praefuit, collectam paulo acerbius exagerat quam pro ea qua apud ipsam floruit gratia condonandam sperarat. Nec hominem verbo dejectam relevare poterat quamvis iniseret et consolatione dimulceret."

mere vegetable of the Court, that sprung at night and sunk again at noon.”\*

He had, however, a most splendid funeral, and now that he was gone, the Queen, to divert her grief, did all that lay in her power to honour his memory. On the 16th of December, his remains were interred in St. Paul’s Cathedral, more than 300 Lords of the Council, nobles and knights, attending by her order, and her band of gentlemen pensioners, which he had commanded, guarding the procession. A sumptuous monument was raised to him, which perished in the fire of London.

Looking only to the frivolous accomplishments to which chiefly he owed his elevation, we must not forget the merits which really belonged to him. Although he possessed a very slender portion of book-learning, he had a very ready wit, and was well versed in the study of mankind. “He was a person,” says Naunton, “that besides the graces of his person and dancing, had also the adjectiments of a strong and subtle capacity,—one that could soon learn the discipline and garb both of the times and the Court.”

He is said to have shown great industry when he was made Lord Chancellor, and to have made himself tolerably well acquainted with the practice of the Court of Chancery; but with a mind wholly unimbued with legal principles, his knowledge of it must have been very superficial. He issued several new orders to improve it, which were much applauded. With respect to these he could only have had the merit, so useful to Chancellors, of availing himself of the experience and talents of others. Again, it is said that none of his decrees were reversed; but if Dr. Swale and he had erred ever so much, there were hardly any means of correcting them; for there was no appeal to the House of Lords in Equity suits till the reign of Charles II., and there was no chance of bringing, with any effect, before the Council the decree of a Chancellor still in power. To give the public a notion that he had attended to the study of the law, he actually published a “Treatise concerning Acts of Parliament, and Exposition thereof;” but it was well known to be written by another, and was withal a very poor production.

When presiding in the Court of Chancery, he disarmed his censurers by courtesy and good-humour, and he occasionally ventured on a joke. At one time, when there was a case before him respecting the boundaries of an estate, a plan being produced, the counsel on one part said, “We lie on this side, my Lord;” and the counsel on the other part said, “And we lie on this side, my Lord;” whereupon the Lord Chancellor Hatton stood up and said, “If you lie on both sides, whom will you have me to believe?”†

Although none of his decisions in Chancery have come down to us, we have a full account of a trial before him in the Star Chamber for a libel,—when he presided with great gravity,—and with many apologies for the leniency of the sentence, he fined the defendant 200*l.*, and directed the Judges to testify this punishment on their

\* Naunton.

† Recorded by Lord Bacon in his *Apophthegms, or Jests Book.*

circuits, to the end the whole realm might have knowledge of it, and the people no longer be seduced with these lewd libellers.\*

His most elaborate effort while he held the Great Seal was his address "on the elevation of Mr. Clerke to the dignity of a Serjeant." After some preliminary observations on the gratitude due to her Majesty for such a distinction, he thus continued:—"No man can live without lawe. Therefore I do exhort you that you have good care of your dutie in the calling, and that you be a father to the poore. That you be carefull to relieve all men afflicted. You ought to be an arm to helpe them, a hande to succoure them. Use uprightness and followe truthe. Be free from cawtell. Mix with the exercise of the lawe no manner of deceipte. Let these thinges be farre from your harte. Be of an undoubted resolution. Be of good courage, and feare not to be carried away with the authoritie, power or threateninges of anye other. Maynteyne your clientes cause in all right. Be not put to sylence. As it is alleged out of the booke of Wisdome, 'Noli querere fieri Iudex, ni forte extimescas faciem potentis, et ponas scandalam in agilitate tua.'<sup>†</sup> Know no man's face. Go on with fortitude, Do it in uprightness. 'Redde cuique quod suum.' Be not parciall to yourself. Abuse not the highest guift of God which no doubt is great in equity. Theis thinges be the actions of nobilitie. He that doth theis thinges dewlie deserves high honour, and is worthy in the world to rule. Let truthe be famyluer with you. Regard neither friende nor enemye. Proceede in the good worke layed upon you. And the laste point that I am to saye to you.—Use diligence and carefunes. And althoughe I have not been acquainted with the course of the lawe, albeit, in my youthe I spent some time in the studye thereof, yet I find by daily experiance that dilligence bringes to pas greate thinges in the course and proceedinges of the lawe, and, contrarie, negligence overthowes many good cawses. Let not the dignitie of the lawe be geven to men unmeete. And I do exhorte you all that are heare present not to call men to the barre or the benche that are so unmeete. I finde that there are now more at the barre in one house than there was in all the Innes of Courte when I was a younge man." He concludes by an exhortation to avoid Chancery and to settle disputes in the Courts of Law. "Wee sit heare to helpe the rigor and extremities of the lawe. The holy conscience of the Queene for matters of equitie in some sorte is by her Majesties goodness committed to mee, when *summum jus* doth minister *summam injuriam*. But the lawe is the inheritaunce of all men. And I praye God blesse you and send you as much worshipp as ever had anie in your cawlinge."<sup>‡</sup>

While holding the Great Seal his highest distinction continued to be his skill in dancing, and, as often as he had an opportunity, he

\* *Regina v. Knightley*, 1 St. Tr. 1270.

† *Ecclesiasticus*, Cap. 7. v. 6. This is the vulgate still always quoted. In the margin, "Æquitate," is proposed for Agilitate. In the Septuagint the word is *ἀθετίς*.

‡ *Reg. Lib. B. 1586. f. 661.*

abandoned himself to this amusement. Attending the marriage of his nephew and heir with a Judge's daughter, he was decked, according to the custom of the age, in his official robes ; and it is recorded, that when the music struck up he doffed them, threw them down on the floor, and saying, " Lie there, Mr. Chancellor !" danced the measures at the nuptial festivity.\*

He affected to be a protector of learned men, and Spenser presented to him a copy of his immortal poem, "The Faery Queen," accompanied by the following sonnet :—

*To the R. H. Sir C. Hatton, Lord High Chancellor of England.*

Those prudent heads, that with their counsels wise,  
Whilom the pillars of th' earth did sustain ;  
And taught ambitious Rome to tyrannise,  
And in the neck of all the world to reign,  
Oft from those grave affaers were wont t' abstain,  
With the sweet lady-muses for to play.  
So Ennius, the elder Africain ;  
So Maro oft did Cæsar's cares allay.  
So you, great Lord ! that with your counsel sway  
The burden of this kingdom mightily ;  
With like delights sometimes make eke delay,  
The rugged brow of careful policy :  
And to these idle rhymes lend little space,  
Which, *for their titles sake*†, may find more grace.

Much erudition and great acquirements were now found to belong [A. D. 1588] to the scape-grace student of the Temple,— and the University of Oxford elected for their Chancellor him to whom they would not grant a degree.

He was celebrated, or rather censured, in the intolerant age in which he lived, for trying to screen from persecution both Papists and Puritans.‡

The nature of his intimacy with Elizabeth, it is to be hoped, was not such as to deprive her of the right to the title that she so often boasted of in public, but it certainly caused much scandal in their own time.§

\* Captain Allen's Lett. in Birch. vol. i. p. 56.

† "The Faery Queen," representing Queen Elizabeth.

‡ "Qui in religionis causa non virendum non secundum censuit." — Camden.

§ Of this we have some evidence in a gossiping letter of Gilbert Talbot, a younger son of the Earl of Shrewsbury, to his father, dated May 11, 1573, at a time when Sir Christopher Hatton, the Vice-chamberlain, had a fit of sickness :—

" My Lo. of Oxford is lately growne into greate credite, for the Q<sup>ue</sup> M<sup>ie</sup> delitte the more in his personage and his daunsinge and valientuer, than any other. My Lady Burghley unwisely hath declared herselfe as it were gelouise, which is come to the Queene's eare, wherreat she hathe bene not a litell offended w<sup>th</sup> hir, but now she is reconciled agayne. Att these love matters My Lo. Treasurer winketh, and will not meddle any way. *Hatton is sicke still* : it is thought he will very hardly recover his disease, for it is doubted it is in his kidnes. *The Queene goeth almost every day to see how he dothe*. Now is there devices(chiefly by Leicester as I suppose, and not without

Lord Chancellor Hatton was never married, which, if we may trust the representation upon this subject in Mary's celebrated letter respecting the private life of Elizabeth\*, arose from the jealousy of his royal mistress, who even broke off a match between him and a daughter

Burghley his knowledge), how to make Mr Edward Dier *as great as ever was Hatton*; in this time of Hatton's sickness the tyme is convenient." He then states the device, which was to make the Queen believe that Dier was actually dying on account of her displeasure, and that he began to recover the moment he heard that she had forgiven him; and thus concludes, "These things I learne of suche young fellowes as myselfe." — 2 Lodg. III. 101.

\* The most striking proof of the prevalent suspicion is to be found in this letter of Mary to Elizabeth, relating the stories circulated by the Countess of Shrewsbury, which a regard to historical truth requires me to insert, — cautioning my female readers against perusing it, though written by a Queen to a Queen. After some prefatory remarks, she says, "J'appelle mon Dieu à tesmoing que la Comptesse de Schreusbury madit de vous ce qui suit au plus près de ces termes.... Premièrement, qu'un, aquel elle disoit que vous aviez fait promesse de mariage devant une Dame de vostre chambre, avoit couche infinites foys avuesque Vous avec toute la licence et privaulte qui se peut user entre mari et femme; Mais qu'indubitablement Vous nestiez pas comme lesaultres fammea, et pour ce respect cestoit follie à touz ceux qui affectoient vostre Mariage avec Monsieur le Duc d'Anjou, d'autant qu'il ne ce pourroit accomplir: et que Vous ne vouldriez jamay perdu la liberte de Vous fayre fayre l'amour et auvoir vostre plaisir tousjours auveques nouveaux amourelx, regrettant ce, disoit elle, que vous ne vous contentiez de Maister Haton, et unaultre de ce Royaulme; mais que pour l'honneur du pays il luy faschoit le plus, que vous aviez non seulement engagé vostre honneur auveques un estrangier Nomme Simier, l'ulant trouver de nuit en la chambre d'une dame, que la dicte Comptesse blasmoit forte a ceste occasion la, ou Vous le bâsiez et usiez auvec luy de diverses privaultes deshonestes; mais aussi luy revelliez les segrezt du Royaulme, trahissant vos propres Counsellers avvesque luy: Que Vous vous estiez desportée de la mesme dissolution avec le Duc son Maystre, qui vous avoit este trouver une nuit à la porte de vostre chambre, ou vous laviez ranconre avec vostre seulle chemise et manteau de nuit, et que par apres vous laviez laisse entrer, et qu'il demeura auveques Vous pres de troyes heures. Quant au dict Haton, que vou le couriez a force, fayant si publiquement paroître l'amour que luy portiez, qui luy mesmes estoit contreint de s'en retirer, et que Vous donnastes un soufflet a Kiligreu pour ne vous avoir ramene le dict Haton, que vous aviez envoiay rappeller par luy, s'etant desparti en chollere d'auveques vous pour quelques injures que luy auviez dites pour certiens boutons dor qu'il auvoit sur son habit. Qu'elle avrait travaille de fayre espouser au dit Haton, la feu Comtesse de Lenox sa fille, maye que de creinte de Vous, il ne osoit entendre; que mesme le Comte d'Oxford nosoit ce rappointer auveques sa famme de peur de perdre la faveur qu'il esperoit recevoir par vous fayre l'amour: Que vous estiez prodigue envers toutes telles gens et ceux qui ce mesloient de telles mesmees, comme a un de Vostre Chambre Gorge, aquel Vous aviez donne troyz centz ponds de rante pour vous avoir apporte les nouvelles du retour de Haton: Qu'a toutz aultres Vous estiez fort ingrate chische, et qu'il ni avoit que troyz ou quatre en vostre Royaulme a qui Vous ayez jamays fait bien: Me conseillant, en riant extresemement, mettre mon filz sur les rancs pour vous fayre l'amours, comme chose qui me serviroit grandement et metroit Monsieur le Duc hors de quartier." She then gives various other disgusting particulars respecting Elizabeth's person and her habits, which as they do not affect my hero, I am glad that I am at liberty to pass over. This letter, written by Mary very indiscreetly shortly before her trial, must have cut off from her all chance of mercy. See it at full length as copied from Lord Salisbury's Papers. — 1 St. Tr. 1202.

ter of the Earl of Shrewsbury, afterwards married to the Earl of Lennox.

Notwithstanding these tender sentiments, Elizabeth did not distinguish him from her other courtiers, by abstaining from the public manifestation of her resentment when he offended her; for as she gave a blow on the ear to the Earl Marshal, and spat on Sir Matthew Arundel, on one occasion she collared Hatton before the whole Court.\* By this missive, he tried to appease her: — “ If the woundes of the thought wear not most dangerous of all w<sup>th</sup>out speedy dressing, I shold not now trouble yo<sup>r</sup> Ma<sup>v</sup> w<sup>th</sup> the lynes of my co<sup>r</sup>playnt; and if whatsoeuer came from you wear not ether very gracious or greevous to me, what you sayd wold not synke so deepe in my bosome. My profession hath been, is, and ever shalbe, to your Ma<sup>v</sup> all duty w<sup>th</sup>in order, all reverent love w<sup>th</sup>out mesure, and all trothe w<sup>th</sup>out blame; insomuch as when I shall not be fownde soche as to yo<sup>r</sup> Highnes Caesar sought to have hys wife to himselfe, not onely w<sup>th</sup>out synne, but also not to be suspected, I wished my spright devyded from my body as his spouse was from his bedde; and therefore, upon yesternight’s wordes, I am driven to say to yo<sup>r</sup> Ma<sup>v</sup>, either to satisfye wronge conceyts or to answer false reports, that if the speech you used of yo<sup>r</sup> Turke did ever passe my pen or lippes to any creature owt of yo<sup>r</sup> Highnes’ hearing, but to my L. of Burghley, w<sup>th</sup> whom I have talked bothe of the man and the matter, I desyre no less condemnation then as a traytor, and no more pardon then hys ponyshment; and, further, if ever I ether spake or sent to the embassad. of France, Spayne or Scotland, or have accompanied, to my knowledge, any that conferres w<sup>th</sup> them, I doe renownce all good from your Ma<sup>v</sup> in erthe, and all grace from God in heaven; w<sup>th</sup> assurans if yo<sup>r</sup> H. thinke not suffi-  
cient, upon the knees of my harte I hu<sup>r</sup>blly crave at yo<sup>r</sup> Ma<sup>v</sup> handes, not so much for my satisfaction as yo<sup>r</sup> own suerty, make the perfitest triaall hearof; for if upon such occasions it shall please yo<sup>r</sup> Ma<sup>v</sup> to syfte the chaffe from the wheate, the corne of yo<sup>r</sup> co<sup>r</sup>monwealth wolde be more pure, and myxt granes wold lesse infect the synnowes of yo<sup>r</sup> suerty w<sup>th</sup> God must strengthen, to yo<sup>r</sup> Ma<sup>v</sup> best and longest preservation.”†

The following letter, addressed to the young Earl of Essex, while commanding the English forces at the siege of Rouen, where his younger brother, Walter, had fallen, was written by Hatton a few months before his death (as is supposed) by the command of the Queen, who had become alarmed for the safety of her new favourite; and it must have been a cruel task to impose upon the old Chancellor to pretend to take such an interest in the youth who had supplanted him: “ My good Lord, lett me he bolde to warne you of a mater that many of yo<sup>r</sup> frendes here gretely feare, namely, that the late accident of yo<sup>r</sup> noble brother, who hathe so valiantly and honourably spent his lyfe in his Prince’s and countrey’s service, draw you not, through grieve

\* *Nugæ Ant.* 167, 176.

† *Lodge. Hist.* III.

or passion, to hasard yo<sup>r</sup> selfe over venturously. Yo<sup>r</sup> Lo<sup>r</sup> best knoweth that true valour consisteth rather in constant performenge of that wh<sup>ch</sup> hath been advisedly forethought than in an aptnes or readiness of thrusting yo<sup>r</sup> person indifferently into every danger. You have many waies and many tymes made sufficient proof of yo<sup>r</sup> valientnes. No man doubteth but that you have enough, if you have not overmuch<sup>e</sup> ; and therefore, both in regard of the services her Ma<sup>t</sup>y exspecteth to receive from you, and in respect of the greife that would growe to the whole realme by the losse of one of that honorable birth, and that worthe w<sup>ch</sup> is sufficiently known (as greater hathe not been for any that hathe beene borne therein these many and many yeeres) I must even before Almighty God, praye and require yo<sup>r</sup> Lo<sup>r</sup> to have that circumspectnes of yo<sup>r</sup> selfe w<sup>ch</sup> is fitt for a generall of your sorte.”\*

The Queen made him a grant of the Isle of Purbeck, and compelled the Bishop of Ely to promise to cede to him a large piece of land in Holborn, belonging to that see, — where grew the famous strawberries praised by the Duke of Gloucester, afterwards Richard III. The Bishop refusing to execute a conveyance of the land, and pleading scruples of conscience, her Majesty, with the assistance of her Lord Chancellor, wrote and sent to him the following missive : —

“ PROUD PRELATE,

“ I understand you are backward in complying with your agreement ; but I would have you to know that I who made you what you are, can unmake you ; and if you do not forthwith fulfil your engagement, by God I will unfrock you.

“ Your’s as you demean yourself,  
“ ELIZABETH.”

The Bishop would not further resist the authority of the Head of the Church, and the Chancellor, having got possession of the land, constructed upon it a magnificent mansion, where he resided when in London. On its site now stands “ HATTON GARDEN.”

At Stoke Pogis, in Buckinghamshire, he had a country house constructed in the true Elizabethan taste. Here, when he was Lord Chancellor, he several times had the honour to entertain her Majesty, and showed that the agility and grace which had won her heart when he was a student in the Inner Temple remained little abated.

To raise the ceiling’s fretted height,  
Each panel in achievements clothing,  
Rich windows that exclude the light,  
And passages that lead to nothing.  
Full oft within the spacious walls,  
When he had fifty winters o’er him,  
My grave Lord Keeper<sup>o</sup> led the brawls,  
The Seal and maces danced before him.

\* Lodge. Hist. Ill. 646.

† By a pardonable contraction, Gray might have allowed Sir Christopher to

His bushy beard and shoe-strings green,  
 His high-crown'd hat and satin doublet,  
 Mov'd the stout heart of England's Queen,  
 Though Pope and Spaniard could not trouble it.

Sir Christopher Hatton left considerable estates to the son of his sister by Sir William Newport. This nephew took the name of Hatton, and married the daughter of the first Lord Exeter, the granddaughter of Lord Treasurer Burghley, and afterwards famous as "the Lady Hatton,"—a beauty at the Court of James I., courted in second marriage by Sir Francis Bacon and Sir Edward Coke. She having the bad taste to prefer the Chief Justice, he got possession of Chancellor Hatton's estate, along with a companion who kept him in trouble the rest of his days.

Christopher Hatton, who, by a collateral branch, was the heir at law of the Lord Chancellor, was ennobled in the reign of James I., by the titles of Viscount Gretton and Baron of Kirby, in the county of Northampton, but the family is now extinct.\*

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## CHAPTER XLVI.

### LIFE OF SIR JOHN PUCKERING, LORD KEEPER OF THE GREAT SEAL.

THE Queen heard of the death of Sir Christopher Hatton in the evening of the 20th of November, but, from ancient recollections and a little remorse, she was too much affected to give any directions respecting the Great Seal till the next morning. She then ordered two Knights of the Garter, Lord Cobham and Lord Buckhurst, to bring it to her. They found it locked up in an iron chest,† in the house of the late Chancellor in Holborn, and forthwith delivered it to her Majesty in the palace at Westminster. She was still more perplexed than she had ever been before as to the disposal of it.

Although the last experiment had turned out better than could have been reasonably expected, such heavy complaints had reached her ears against the appointment, that she would not venture again to select a Lord Chancellor or Lord Keeper merely from his good looks and fashionable accomplishments. Her Court consisted of two orders,—favourites and men of business. She now felt that it was among

retain his just rank of Lord Chancellor, instead of reducing him to "Lord Keeper."

\* *Grandeur of Law*, ed. 1684, p. 16.

† "In cista de ferro coloris rubei sub clavi nuper Cancellarii reclusa." — R. Cl. 34 Eliz.

the latter she was bound to look for the first Judge of the land. But Puckering, her Prime Serjeant, who was next in succession to the office,—a profound Jurisconsult it is true,—was in manners and appearance such a contrast to his gay and gallant predecessor;—he was so dull, heavy, and awkward;—his whole deportment was so “lawyer-like and ungenteel,”—that she for a long time could not summon resolution to consent to his appointment. Meanwhile an expedient was resorted to which, I believe, was quite new, and has never since been followed,—of having two Commissions for doing the duties of the Great Seal. Lord Burghley, Lord Hunsdon, Lord Cobham, and Lord Buckhurst were appointed to seal writs, patents, and decrees; and Sir Gilbert Gerrard, the Master of the Rolls, and others, were authorised to hear and decide causes in the Court of Chancery.\*

Things went on according to this plan for seven months, but not very satisfactorily; for there were disputes between the two sets of Commissioners respecting jurisdiction and fees; and Gerrard’s colleagues not deferring, as he expected they would, to his experience and rank,—from their division of opinion the decrees pronounced by them had less weight.

Prime Serjeant Puckering had about this time pleased her Majesty by the able manner in which he had conducted [APRIL 27, 1592.] the trial of Sir John Perrot, the Lord Deputy of Ireland, before the Star Chamber, and at last she [MAY 28, 1592.] consented to his having the Great Seal, with the lower rank of Lord Keeper.

JOHN PUCKERING is an instance of a man, without possessing brilliant parts or committing any dishonourable action,—by industry, perseverance, and good luck, raising himself from obscurity to the highest civil office in the state.

He was the younger son of a gentlemen of very small fortune, residing near Flamborough Head, in the county of York, who had great difficulty in giving him a decent education, and could give him nothing more.

It is doubtful whether the future Lord Keeper ever had the advantage of being at a University. He studied law with great assiduity in Lincoln’s Inn, and in the mootings in which he engaged he displayed much familiarity with the *Year Books*, which he pored over day and night. As an apprentice, or utter barrister, he had not much practice in common matters; but he had a great reputation for learning, and he was consulted in cases of weight and difficulty. [A. D. 1580.] He was called to the degree of Serjeant at Law in the twenty-second of Elizabeth, along with Clench, Walnesley, Fleetwood, Periam, and other distinguished lawyers; and now, being entitled to practise in the Court of Common Pleas, his extraordinary

\* “Eodem die altera Commissio directa Gilberto Gerrarde, militi, Magno Rot. et aliis pro audiendo et terminando causas in honorabili curia Cancell. sigillata fuit.”—R. Cl. 34 Eliz.

knowledge of the law of real actions, exclusively tried there, gave him such an advantage, that he at once rose to eminence.

He next became a member of the House of Commons, where he [A. D. 1581.] gained considerable reputation on questions respecting regularity of proceeding and privilege, in the two last sessions of the parliament which, after continuing on foot for eleven years, was dissolved in the beginning of the year 1583.

When a new parliament assembled, in November, 1585, Puckering was elected Speaker, and filled the chair efficiently, if not gracefully. During the Session the Queen sent for him, and reprimanded him for allowing a bill to be introduced for a further reform of the Church. He communicated her displeasure to the House, and the bill was allowed to drop. At the prorogation he delivered an address to the Queen, most insufferably long, perplexed, and tedious. Alluding to the Queen's complaint of their debates, he said, "I can assure your Majesty, that in this assembly there was never found in any speech, private or public, any argument or token of the mind of any person that showed any intention to be offensive to your Majesty. And for proof hereof, when it pleased your Majesty to direct me to declare your pleasure to the Commons' House in what sort you would they should stay any further debating of the manner of reformation of such things as they thought might be reformed in that Church, I found them all ready to obey your Majesty's pleasure therein." He concluded by asking her to give her royal assent to the bills they had passed, — exhibiting a specimen of the performance of a Serjeant at law trying to be eloquent. "Lastly, I am, in their names, to exhibit our most humble and earnest petitions to your Majesty to give life to the works, not of our hands, but of our minds, cogitations, and hearts; which, otherwise than being lightened by the beams of your favour, shall be but vain, dumb, and dead."<sup>\*</sup>

At this time it was usual for a lawyer filling the chair of the House of Commons to continue to practise at the bar, and Puckering was employed as counsel for the Crown in the state trials arising out of the plot to rescue the Queen of Scots. The conduct of the prosecution of Babington and Tilney, two of the principal conspirators, was chiefly conducted by him, and he made speeches against them, read confessions, put questions to the accused, and, at a pinch, gave a little evidence himself, after the manner of the times.

When a new parliament was called, with the view of carrying into execution the sentence pronounced against Mary, Puckering was again chosen Speaker, and was approved of by "the Lords Lieutenants," who represented the Queen. There was a special order from her, which was implicitly obeyed, "that no laws should be made at all in this session." And the only business stirred was the execution of the sentence upon Mary.<sup>†</sup>

When the preliminary forms had been gone through, the Speaker

\* 1 Parl. Hist. 830.

† Ibid. 835.

reminded the House of going upon the "Great Cause," as they termed it. Mr. Francis Bacon, on this occasion, made his maiden speech, and the Speaker was unanimously directed to wait upon the Queen, and to urge her to comply with their wishes. Puckering was received by her at Richmond, and stated five reasons why the Queen of Scots should be put to death. "1st, She and her favourers think she has not only a right to succeed to your Crown, but to enjoy it in possession. 2dly, She is obdurate in malice against your royal person, and there is no place for mercy, since there is no hope that she will desist from most wicked attempts. 3dly, She boldly and openly professes it lawful for her to move invasion upon you. 4thly, She thinks it not only lawful, but honourable and meritorious, to take your life, as being already deprived of your Crown by the Pope's excommunication. 5thly, She is greedy for your Majesty's death, and prefers it before her own life and safety; for in her directions to one of her late accomplices, she advised, under covert terms, that whatever should become of her, tragical execution should be performed upon you."

Elizabeth delivered an extempore harangue in answer, saying, that "if, instead of Queens, they were but as two milkmaids, with pails upon their arms, and if her own life only were in danger, and not the whole estate of their religion and well-doing, she would most willingly pardon the offence committed against her; but that she would, for the good of her subjects, take the matter into consideration, and send them her resolution with all conveniency." The ungainly Puckering was attended, on this occasion, and prompted by, that accomplished courtier, Hatton, the Queen's Vice-chamberlain, who pleased her much more than the Serjeant, and, without any one suspecting it, was now so near to greatness.

The fears of Elizabeth and the English nation being quieted by the death of Mary, for which they were all so eager, — Puckering's next appearance was as counsel to prosecute Secretary Davison, in the Star Chamber, for his presumption in sending off the warrant for execution without due authority. The account says, that "he aggravated Davison's offence, and was forward to accuse, and yet seemed more *pro forma tantum* than of any matter he had to charge him withal."\* And certainly those who were then assembled must have had more gravity than the Roman Augurs meeting each other, if they were able to keep their countenance while they were playing their parts in this farce; although it turned out a serious matter for the poor Secretary, who had a heavy fine imposed upon him, and was permanently deprived of his office.

For these services, Puckering was now made Queen's Serjeant, and thereby put over the Attorney and Solicitor General.†

He was soon after leading counsel for the Crown in the celebrated prosecution of Knightley for a libel before the Star Chamber,‡ and the important trial of the Earl of Arundel for high treason, before the

\* 1 St. Tr. 1233.

† Or. Jur. 97.

‡ St. Tr. 1263.

Court of the Lord High Steward.\* On this last occasion he had rather a curious dialogue with the noble prisoner, who desired to know how he was a traitor? *Puckering, Serj.* "The traitors have a good conceit of my Lord of Arundel, knowing him to be affected to the Catholic cause. It is defined, that the Catholic cause is mere treason. Petro Paulo Rossetto came over to sound noblemen and gentlemen in England."† There was a picture produced, found in my Lord's trunk, wherein was painted a hand bitten with a serpent, shaking the serpent into the fire,—about which was written this poesy, *Quis contra nos?* — on the other side a lion rampant, with his chops all bloody, and this poesy, *Tamen Leo.* The noble prisoner in vain said he had received it innocently as a new-year's gift. He was found guilty by his Peers; but being respite, he died a natural death in the Tower.‡

Puckering's last appearance at the bar was on the trial of Sir John Perrot, late Lord Deputy of Ireland, for high treason. This rough soldier had always been very loyal to the Queen; but, when in a passion, had been in the habit of speaking of her very disrespectfully; and being recalled in disgrace, his enemies, taking advantage of his hasty expressions, were resolved to bring him to the scaffold.

Puckering, in opening the case to the Jury, gravely contended, that words were sufficient to establish the charge against the prisoner, for "the original of his treasons proceeded from the imagination of his heart, which imagination was in itself high treason, albeit the same proceeded not to any overt act; and the heart being possessed with the abundance of his traitorous imagination, and not being able to contain itself, burst forth in vile and traitorous speeches, for *Ex abundantia cordis os loquitur.*"§

Evidence was then given that the prisoner, when Lord Deputy, had said at the Council table, "Stick not so much on the Queen's letters of commandment, for she may command what she will, but we will do what we list." "Nay, God's wounds! I think it strange she should use me thus." "This fiddling woman troubles me out of measure." "It is not safe, for her Majesty to break such sour bread to her servants;" and that he had used other such uncourtly expressions. A feeble attempt was likewise made to show that he had been engaged in a treasonable correspondence with the Prince of Parma.

Puckering, as leading counsel for the Crown, then summed up, and (seemingly without any speech from the prisoner, or direction from the bench,) "prayed the jury to consider well of that which had been said, and willed them to go together." Perrot, however, burst out in a passion, desiring them to have a conscience in the matter, and to remember "that his blood would be required at their hands." The jury departed from the bar, and in three-quarters of an hour returned with a verdict of *guilty.*||

\* *PUCKERINGUS, Regius ad legem serviens, exorsus primam accusationis partem fusius explicavit.* — *Camd. Eliz. vol. ii. 4.*

† *1 St. Tr. 1263.*

‡ *Ib. 1263.*

|| *Ib. 1326.*

§ *Ib. 1318.*

The Queen was much pleased with the report brought to her of Serjeant Puckering's zeal on this occasion, and she forthwith rewarded him for it; but it should be remembered to her honour, that when she afterwards read an account of the trial, she refused to allow the sentence to be carried into execution,—repeating with applause the rescript of Theodosius, “If any person speak ill of the Emperor through a foolish rashness or inadvertency, it is to be despised; if out of madness, it deserves pity; if from malice, it calls for mercy.”

Puckering's honours were showered upon him at Greenwich in the evening of Sunday the 28th of May, 1592. First he was conducted into the Queen's closet and there knighted.\* He was next admitted of the Privy Council, and having taken the oaths, he was led into the Council Chamber, placed at the lower end of the Council table, and made to sign a paper as Privy Councillor. He was then conducted back to the Queen's closet, where her Majesty having addressed to him an eloquent discourse upon the duties of the office she was about to bestow upon him, and exhorted him to strive to please God and to do justice to all who should come before him as suitors,† delivered into his hands the Great Seal, with the title of “Lord Keeper.” He then with the other Councillors returned to the Council Chamber, and took his place at the upper end of the table according to his new rank.

Other memorable legal promotions took place at the same time,—Sir John Popham being made Chief Justice of the Queen's Bench,—Sir Thomas Egerton, Attorney General,—and [MAY, 1592.] Sir Edward Coke, Solicitor General.

On the 4th of June, the Lord Keeper rode in great state from York House, near Charing Cross, which became the official residence of several successive Lord Keepers and Lord Chancellors, to Westminster Hall, attended by a long retinue of Lords, Knights, Judges, and lawyers,—and publicly took the oaths in the Court of Chancery. Four days afterwards he sat the first time in the Star Chamber.

Puckering held the Great Seal as Lord Keeper till his death,—a period of four years,—with the character of judicial ability and personal integrity. But although profoundly versed in all the mysteries of the common law, he was nothing of a civilian, and his mind was not much imbued with the general principles of jurisprudence. His practice had been confined almost entirely to the Common Pleas, till, in his capacity of Queen's Serjeant, he was obliged to conduct government prosecutions. He had occasionally of late gone into the Court of Chancery; but from Lord Chancellor Hatton his knowledge as an Equity lawyer did not much improve. He was thought therefore to take too narrow and technical a view of the questions which came be-

\* “Per semetipsam Dnam Reginam in privatâ camerâ suâ in Equestrem dignitatem receptus fuit et ornatus.”

† “Quoad tam placitandum Deo, qm̄ ut p̄pli sui omnes coram ipso causas ad agendum hentes, bono moderamine tractarent et recte ab eo in omnibus satisficerent. — Rot. Cl. 34 Eliz.

fore him, and he left the field of Equity almost virgin ground to his successor, Lord Ellesmere, by whom it was cultivated so successfully.

There being a call of Serjeants soon after his installation, he gave his brethren these admonitions, — some of which would be very serviceable to the bar at the present day : — “ If you find the cause to be unconscionable, cruel, unmerciful, or grounded upon malice or for vexation, reject it and deal not therein. Dissuade your client from it, which, if you cannot do, leave him in his madness and phrensy. In all your pleadings seek not advantages to trip one of you the other by covin or niceness ; and as you are of one profession, so lovingly and brotherly warn the one the other of any thing mistaken or misconceived in pleading. *I am to exhort you also not to embrace multitude of causes, or undertake more places of hearing causes than you are well able to consider of or perform, lest thereby you either disappoint your clients when their causes be heard, or come unprovided, or depart when their causes be in hearing. For it is all one not to come as either to come unprovided or depart before it be ended.* ”\*

A new parliament was called in the beginning of the year 1593, [FEB. 19, 1593.] and Lord Keeper Puckering, in the presence of the Queen, delivered the initiatory harangue to the two Houses. With all the prolixity and tediousness of Serjeants in old times, he dilated upon the relations of England with Spain, France, the Empire, the Low countries, and Scotland : He drew a piteous picture of her Highness’s necessities, “ which had actually caused her to sell part of her Highness’s Crown : ” He warned them that the calling of this parliament was “ not for the making of any more new laws, for there were already so many that, rather than burden the subjects with more, it were fitting that an abridgement were made of those there were already ; and, ” said he, “ whereas, heretofore, it hath been used that many have delighted themselves in long orations, full of verbosity and of vain ostentations, the time that is precious should not be so spent. ”†

The Speaker elected was the famous Edward Coke, lately made Solicitor General, who when presented at the bar of the House of Lords disqualified himself to the Queen in quaint phrase, saying, among other things, “ as in the heavens a star is but *opacum corpus* until it have received light from the sun, so stand I *corpus opacum*, a mute body, until your Highness’s bright shining wisdom hath looked upon me and allumed me. How unable I am to do this office my present speech doth tell : of this House I am most unfit ; for amongst them there are many grave, many learned, many deep wise men, and those of ripe judgments ; but I am untimely fruit, not yet ripe, a bud scarcely blossomed. So, as I fear me, your Majesty will say, *Neglecta frugi, eliguntur folia*, — amongst so many fair fruit ye have plucked a shaken leaf. ”‡

The Lord Keeper, by the Queen’s command, thus addressed him :

\* Reg. Lib. A. 1590. f. 169.

† 1 Parl. Hist. 858.

‡ Ibid. 861.

“ Mr. Solicitor, her Grace’s most excellent Majesty hath willed me to signify unto you, that she hath ever well conceived of you since she first heard of you, which will appear when her Highness elected you from others to serve herself. By this, your modest, wise, and well composed speech, you give her Majesty further occasion to conceive of you above that which ever she thought was in you. By endeavouring to deject and abase yourself and your desert, you have discovered and made known your worthiness and sufficiency to discharge the place you are called to. And whereas you account yourself *corpus opacum*, her Majesty, by the influence of her virtue and wisdom, doth enlighten you, and not only alloweth and approveth you, but much thanketh the Lower House, and commendeth their discretion in making so good a choice, and selecting so fit a man.”

Speaker Coke then delivered another florid oration in her Majesty’s praise, concluding with the triple prayer in the name of the Commons, for freedom of speech, freedom from arrest, and access to her royal person.

*Lord Keeper Puckering.* — “ Liberty of speech is granted you ; but you must know what privilege you have ; — not to speak every one what he listeth, or what cometh in his brain to utter — but your privilege is *Aye!* or *No!* Wherefore, Mr. Speaker, her Majesty’s pleasure is, that if you perceive any idle heads which will not stick to hazard their own estates, which will meddle with reforming the Church, and transposing the Commonwealth, and do exhibit any bills to that purpose, that you receive them not until they be viewed and considered by those who it is fitter, should consider of such things, and can better judge of them.”\*

The famous Peter Wentworth, the Puritan, and three other members, thought to evade this injunction by presenting a petition to the Lord Keeper, instead of making a motion in the House, that the Lords would join in supplicating her Majesty that she would agree to settle the succession to the Crown, for which they had a bill ready drawn. But they were immediately called before the Council, and the Lord Keeper telling them that the Queen was highly displeased at their presumption, they were all committed to prison. A motion was made for their release ; but it was answered that her Majesty had committed them for causes best known to herself, and that she would release them whenever she thought proper, and would be better pleased to do it of her own proper motion than from their suggestion.†

At the close of the session Speaker Coke, having delivered an oration comparing her Majesty to the queen bee, [APRIL 10, 1593.] *sine aculeo*, Lord Keeper Puckering was not very complimentary to the Commons, saying that “ her Majesty thought that, in some things, they had spent more time than they needed. She disliked also that such irreverence was shown to Privy Councillors, who were not to be accounted as common knights and bur-

\* 1 Parl. Hist. 862.

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† D’Ewes, p. 497.

gesses of the House, who are councillors only during the parliament ; whereas the others are standing councillors, and for their wisdom and great service are called to the wisdom of the state." — So was privilege dealt with by these great lawyers, Puckering and Coke, who were probably applauded by many for assisting in restraining the usurpation of the Commons !

During Puckering's time parliament did not again meet, and no other public event occurred in which he was concerned, — entire tranquillity prevailing at home, and the attention of the nation being absorbed by the expeditions fitted out against Spain.

He died of an apoplexy, at York House, on the 30th of April, 1596, and was buried in Westminster Abbey, where there is a monument erected to his memory.

Lord Keeper Puckering was a mere lawyer, having no intercourse with scholars or men of fashion, and mixing with statesmen only when, in the discharge of his official duties, he was drawn among them from the society of Judges, Benchers, and Readers, in which he delighted. No sonnet was ever addressed to him. He probably never read the Faery Queen, or heard of William Shakspeare, who was now rising into fame. Hence no personal anecdotes of him have descended to us, and for his history we are obliged chiefly to resort to musty rolls and records. Nevertheless, there can be no doubt that he was much respected, and looked up to in his own time.\*

The only charge ever brought against him was, that he sold his church patronage ; and this was supposed to have arisen from the corrupt practices of some of his officers, which never came to his knowledge.†

\* Law books were dedicated to him in flattering phrase. *CROMPTON*, the author of " *L'Authoritie et Jurisdiction des Courts de la Majestie de la Roygne*," thus addresses him : —

A Monseigneur,

Monseigneur Jehan Puckering, Chiv.

Gardien du Grand Sceau Dangleterre,  
Et Conseillier d'estate a Sa Majesté.

Monseigneur . . .

M'estant retire aux champs et en ma maison, pour le soulagement de ma veeillesse, et ayant employé journellement quelque heure de loisir a composer ce petit recueil pour aider a l'industrie de ceux qui sans telles collections seroient aulcunes fois, peult estre, empesches a passer de l'oeil tant et de si gros volumes, Jay trouves bon, me confiant en vostre naifue bonte et courtoisie, de vous dedier treshumblement ce mien petit ouvrage. Et cela dautant plus hardement, que Je sache ny estre contenue aulcune chose qui soit de ma propre invention, ou qui puisse pur sa nouveaulx estre desagreable ny a sa Majesté ni a vostre Seigneurie, que tant Je honore et au quel Je souhaite le comble de tout honneur et felicité.

De vostre Seigneurie

Le tres humble et affectioné Serviteur,

RICHARD CROMPTON.

This is a curious specimen of the dialect which English lawyers then used in their writings, and continued to use till the 18th century.

† " *Intra hunc annum (mæxvii) nonnulli insignioris notæ et nobilitatus ex*

Lord Keeper Puckering was the last of four individuals who successively died in the reign of Elizabeth holding the Great Seal. In spite of the foibles imputable to her, it is impossible not greatly to admire her enlightened and steady administration of the state. In the preceding and succeeding reigns we find frequent changes in the high offices under the Crown from the personal caprice of the Sovereign or the uncontrolled struggles of opposing factions ; but she had the same prime minister for forty years, and she never took the Great Seal from any Keeper or Chancellor to whom she had intrusted it.

Puckering left behind him a large estate, acquired by his industry, without royal grants, such as had swelled the possessions of his predecessors. In the reign of Charles II. his family ended in a female, married to Sir Henry Nanton.\*

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## CHAPTER XLVII.

### LIFE OF LORD ELLESMORE FROM HIS BIRTH TILL THE EXECUTION OF THE EARL OF ESSEX.

On the death of Sir John Puckering, Queen Elizabeth, according to her usual practice, was herself Chancellor ; but on this occasion only for a very short time, having speedily made up [APRIL 30, 1596.] her mind as to the mode in which the office was to be disposed of. On Saturday, the 1st of May, she sent Sir John Fortescue to York House for the "Clavis Regni," and he, having received it from the officers of the late Lord Keeper, brought it to her at Greenwich. At the palace there a sealing took place on the 3d of May, when Lord Cobham and Lord Buckhurst, by her orders, and in her presence and in her name, sealed all writs and processes ready to be issued, restoring the Seal to its silken purse, and leaving it with her Majesty, who kept it in her bed-chamber.†

Three days afterwards she delivered it, with the applause of the whole nation, to Sir THOMAS EGERTON, and he held it uninterruptedly for a period of twenty-one years.

It is refreshing, now, to have to contemplate the life of a man remarkable alike for talent, learning, and probity, who raised himself from obscurity by his own exertions, and who reached the highest honours without affixing any stain on his character, and with merit so acknowledged that he did not even excite the envy of rivals.

hujus vite statione evocati fuerunt ; equibus imprimis memorandus Joannes Puckeringus, Magni Angliae Sigilli Custos, qui ob famulorum sordes et corruptelas in ecclesiasticis beneficiis nundinatis, ipse vir integer apud ecclesiasticos haud bene audivit." — Camden, vol. ii. p. 128.

\* Fuller's Worthies.

† Rot. Cl. 38 Eliz. p. 14.

He was the natural son of Sir Richard Egerton, of an old knightly race in Cheshire, and was born in the parish of Doddlestone, in that county, in the year 1540. His mother's name was Sparks, from whom he is said to have inherited great beauty of countenance.\* The tradition of the country is that he was nursed by a farmer's wife at Lower Kinnerton, in the neighbourhood,—and that being carried, while a child, to Doddlestone Hall, which he afterwards purchased when Chancellor, he expressed an eager desire to rise in the world, and to become the owner of it.—He appears to have been very tenderly and carefully reared, and to have been acknowledged and cherished by his father's family. From their kindness, he had the advantage of a regular education. Every thing else he achieved for himself.

Having been well grounded in Latin and Greek under private tuition, in his sixteenth year he was entered of Brasen Nose College, Oxford. Here he remained three years, to the great contentment of his teachers; and, besides extending his knowledge of the classics, he particularly distinguished himself by his proficiency in the logic of Aristotle, which then constituted, and still constitutes, so important a branch of the studies of that University. He was destined to the profession of the law, for which it was well judged that, by his habits and turn of mind, he was apt; and having taken his bachelor's degree, he was removed to Lincoln's Inn. He now not only gave himself to the perusal of Bracton and Fleta, but he diligently attended the lectures of the "Readers," and the "Mootings," to which students were admitted in his Inn; and he was present at all remarkable pleadings and trials which took place at Westminster. It is related that he first gave earnest of his future eminence by interposing as *Amicus Curiae*, while yet a student, when a verdict was about to be pronounced which would have ruined a worthy old lady who kept a house of public entertainment in Smithfield. Three graziers had deposited a sum of money with her, to be returned to them on their joint application. One of them fraudulently pretending that he had authority to receive it, induced her to give him the whole of the money, and absconded with it. The other two brought their action against her; and (as the story goes) were about to recover, when young Egerton begged permission to befriend the Court, by pointing out a fatal objection which had escaped her Counsel as well as my Lord Judge. Said he: "This money, by the contract, was to be returned to *three*, but *two* only sue;—where is the *third*? let him appear with the others; till then the money cannot be demanded from her." This turned the fortune of the day; the plaintiffs were nonsuited, and our young student was from that day considered to be of great mark and likelihood.†

\* The place where his parents met is still pointed out to travellers under the name of "Gallantry Banke."

† This "traditional story," although the law of it be unexceptionable, I consider an invention, as much as Miss Edgeworth's anecdote of the young barrister,

He by no means confined himself, like Serjeant Puckering, to the learning of real actions, but made himself a general jurist; and although, happily, there was not then such a custom as has been established within the last forty years, for young gentlemen to prepare themselves for the Court of Chancery exclusively, by spending their whole time, while they are keeping terms, in drawing bills and answers,—he paid more attention than perhaps any one before him had done to the nature, extent, and history, of the equitable jurisdiction of the Lord Chancellor; and he now laid the foundation of that knowledge which he afterwards displayed in his writings on this subject, and in his decrees when he himself held the Great Seal.\*

Being called to the bar, he soon got into respectable practice, which steadily increased. In a few years, although he never took the degree of the coif, and therefore he could not practise in the Court of Common Pleas, there were few cases of importance in the Court of Queen's Bench, in the Chancery, or the Exchequer, in which he was not counsel.

It is well known that Queen Elizabeth took a lively interest in all suits in which her revenue, or any of her rights, were concerned, and personally exercised a superintendence over the manner in which they were conducted. It is related, that happening to be in Court when Mr. Egerton was pleading in a cause against the Crown, her Majesty exclaimed: "On my troth, he shall never plead against me again," and immediately made him one of her counsel; whereby he was entitled to wear a silk gown, and to have precedence over other barristers. But he continued not only to argue the cases of his clients in Court, but most laboriously to assist in advising upon the witnesses to be called and the evidence to be adduced;—rather mixing what we consider the distinct functions of the attorney and the counsel.†

who, being junior in a case at *nisi prius* to try the validity of a will of *personal property*,—when it came to his turn to address the jury, made his fortune by bringing out an objection which he had carefully concealed from his leader. But the fair writer had an undoubted right to dispense both with the forms of legal process, and with professional etiquette.

I take my anecdote from the Reverend Francis Egerton's "Life of Lord Ellesmere," the worst piece of biography I have ever had the misfortune to be condemned to read.

\* On an examination of the books of the Society of Lincoln's Inn, the only entries respecting him are one of 22 Eliz., when it was resolved that "Mr. Egerton should be called to the bench next moot, and that he should have ancientie of Mr. Clerke and Mr. Owen;" and one of 29 Eliz., when being Solicitor General, he was appointed Treasurer. He appears to have attended Councils regularly till 27th May, 35 Eliz., after which, his name is not to be found in the list of benchers present.

† I give as a specimen a letter from him to a country client, respecting the progress of a suit in Chancery. There can be little doubt of his perfect sincerity respecting the evidence of the entry to avoid the fine, but his language reminds me of an anecdote I have heard of the manner in which a similar difficulty was obviated in a case tried on the Oxford circuit. At a consultation the night before the trial, the plaintiff's attorney, whose name was Timothy Tickler, intimated that

In the year 1581, there was a move in the law on the death of Sir William Cordwell, the Master of the Rolls, when Gerrard, the Attorney General, succeeded him; Popham, the Solicitor General, was [JUNE 28, 1581.] made Attorney; and Egerton, who, on account of his unrivalled eminence, had been long destined to the honours of the law, both by the Queen and the voice of his profes-

the defendant had discovered that there had been a fine levied, which was to be given in evidence next day. — *Counsel.* “That will be fatal, unless there has been an entry to avoid the fine.” — *Tickler.* “What is the meaning of an entry to avoid a fine?” — *Counsel.* “The party who claims the land, after the fine is levied goes upon the land and says, *I enter to avoid all fines.*” The consultation broke up without a ray of hope. But next morning, a supplemental brief was delivered, — “To prove that after the fine levied in this case, an entry was duly made by the plaintiff to avoid it, — call — **TIMOTHEY TICKLER.**”

“The right worship<sup>h</sup> Richard Brereton, esqr., thes be delivered at Worsley.”

“Your cause touchinge Pendleton Heye hath bene twyse hearde, upon Thursdays last, and this Saterdaye, beinge the xv<sup>th</sup> of this October, and hath houlden the Court bothe the same dayes without dealinge in any other matter. Yt hath sythens fallen out very well, and this daye, when I expected, an order for you, Mr. Sherington dyd stande upon a releesse, which he supposeth to have bene made by your grandmother to Mr. Tyldesleye, and a fyne, with proclam. levyyed by Mr. Tyldesleye to Mr. Sherington, beyen self in the viij<sup>th</sup> yere of the quene's May raigne; which fyne as yt came unlooked for, and for my parte was never hearde of before, so I affyrmred that you had made severall entries to avoyde the same and all such lyke incombrances; which, yf you can prove, the opynyon of the Court semeth to waye fullye with you, and so all your counsel thynde. The Courte, therefore, is desyrous to be satisfied by some prooffe to be made by you touchinge that point: twoo wytnesses alone wyll suffyse. You maye at your choyse eyther sende them by thes, or else have a commyssyon returnable the next terme, wherein Mr. Sherington must then joyne with you. Wherefore, in myne opynyon, the better waye bothe for speedye proceedinge, and ease of charge, is to sende upp twoo by thes so soone as you can. I woulde you shoulde make choyse of twoo such as are of good credyte and understandinge, which can depose the fyrist entree which you made into Pelton Heye after your grandmother's death, which (as I thynde) was before you came to your full age; yf the same can also testyfye the other entrees which you made since, it will be the better. I thynde Mr. Wyll. Leycester and James Russell have bene with you at all the entrees you have made. Such as you sende may bryng the notes which you dyd sette downe of the tyme and manner of your entree into Pelton Heye, and also a copye of the offyce roule after the death of your grandmother, by which it maye appere what day and yere she dyed. I doe think that this course wyll be lesse charge then to have a commission, besydes the delaye, and as yet nothing is assyed of the fyne which was levyyed for the assuring of your Aunt Dorothee's annuyte, which I feare more then all the rest, and which, by longe delaye, maye heppelye come to lyght. Yf that fyne be not objected, I doubt not but before therde of thi- terme, upon prooffe of your entree, you shall have such an order for Pelton Heye, as you shall have no cause to myslyke.

“For Swynton Moore this daye, at rysing of the Court, the matter was a litle entered into, but for want of tyme, deferred untill Thursdays next, and is then to receyve order, for that I suspecte (as I have done alwayes) that you are lyke to be dismissed to the common lawe; but what maye be done shall, for now I begynne to learne to playe the Solycytur protlye. Your wytnesses are all charged with

sion, was the new Solicitor General. He held this office near twelve years, during which time he took a very prominent part in conducting state prosecutions, and all the business of the Crown ; for, though inferior in rank, he was superior in eloquence and address to the Queen's Serjeants and the Attorney General. Conforming to the practice of the times, — when prosecuting for high treason, he put questions to the prisoner, and stated facts of which he offered no proof beyond his own assertion. For example, on the trial of Tilney, charged with being concerned in a conspiracy along with Babington and Ballard to assassinate the Queen, the prisoner having answered, “ As for Ballard's coming to me, I do confess it ; but it was in such public manner as no man in the world could judge his coming for any such intent as treason : he came openly in the day-time, and undisguised ; ” — this retort is made by the Solicitor General : — “ Tilney, you say true ; he came not disguised, but I will tell you how he came ; being a popish priest, he come in a grey cloak laid on with gold lace, in velvet hose, a cut satin doublet, a fair hat of the newest fashion, the band being set with silver buttons.\*

When the unfortunate Mary was to be tried before her prosecutors, Egerton was particularly consulted as to the designation by which she ought to be indicted. There was a [A. D. 1586.] great scruple about calling her “ Queen of Scots,” because many thought a Sovereign Prince could not lawfully be tried before any

perjury by Mr. Sherington, for it semeth he is perswaded that no man can speake true. Yf you shoulde deal with his wytnesses in lyke sort, I thynke you shoulde but requyte hym as he deserweth, but of that you maye conseyder, and lette me knowe your mynde before thende of the terme.

“ Thus, in hast, I take my leave, with my hartye commendations to you and your wyffe, and Mr. Wyll. Leycester, and all other my frendes. Lyncoyne's Inne, this Saterdaye, 15<sup>o</sup> Octobris, 1580.

“ Your's assured, in all I can,  
“ Tho. EGERTON.”

“ After I had wrytten thus much, and so had fynyshed my letter, I had understandinge that Mr. Sherington meant to stande upon the former oulde tylte of Worsley of Brothes, and that you were not the right heyre, and so to call in question your tylte and the oulde poynt of the bastardoyle agayne. For doubt of this you shall doe well to sende uppe the Pope's bull touching that mariage, and the copye of the recorde in the seconde yeare of Kinge Henrye the Fourthe's time, by which your auncestor recovered in the assyse agaynst Worsley of Brothes. Yf you sende uppe also the copye of the receverye at Lancaster, and the copye of the indenture inrolled at Chester, and dedes of refessment made a<sup>o</sup> 9 H. 8., you shall doe well. You have all but the dede of refessment layed togither to have used the same at Lancaster agaynst Tho. Brereton, and the dede of refessment I thought good to suppresse and not to shewe in that matter, but now, for the better answering of all thes and such lyke quarrellinge objections, I woulde have you to send all uppe to me, and then they maye be used as occasyon shall requyre. And so I bidd you agayne fare well. 16 Octobris, 1580.

“ Your's, all I can,  
“ Tho. EGERTON.”

*From Lord Francis Egerton's MSS.*

\* 1 St. Tr. 1150.

earthly tribunal ; therefore he recommended that she should be named “*Maria, filia et haeres Jacobi Quinti, nuper Regis Scotorum, communiter vocata Regina Scotorum, et Dotaria Francie.*” The indictment being framed, he went special, with Gaudie and Popham, to Fotheringay, to conduct the prosecution. He summed up at the conclusion of the second day, putting the Commissioners in mind what would become of them, their honours, estates, and posterity, if the kingdom were to be transferred from her present Majesty to a Popish successor.\* The Lord Treasurer, though the directing Judge, followed on the same side before he asked the royal prisoner for her defence ; — when she begged to be admitted to the presence of Elizabeth, and to be heard before a full parliament.

Mr. Solicitor was particularly severe as Counsel against the Earl of Arundel, arguing that, because it was proved he had said he would be ruled by Cardinal Allen in any thing that should concern the Catholic cause, “[a. d. 1589.] My Lord must needs be culpable for all the treasons Allen hath practised or procured. When the Spanish fleet was upon our coast, and news was brought to the Tower (where he was confined) that the Spaniards sped well, then the Earl would be merry, and when news came that the English fleet sped well, the Earl would be sorry. When the Spanish fleet was upon the coast of Kent, my Lord said, It is a great wood, and a puissant fleet ; we shall have lusty play shortly, and I hope we shall plague them that have plagued us.”† On such overt acts of treason, so proved, was the head of the house of Norfolk convicted ; but Elizabeth wished only to daunt him and his adherents, and she suspended the execution of the sentence till, after a long imprisonment, he died a natural death.

On the 2d of June, 1592, Egerton succeeded Popham as Attorney General, and had for his new colleague, as Solicitor, the famous Sir Edward Coke, who had already fixed the attention of the public by his extraordinary vigour of intellect, his profound knowledge of the common law, and his unexampled arrogance.

The only official act of Mr. Attorney General Egerton which has come down to us is his praying for judgment against Sir John Perrot, late Lord-Deputy of Ireland, who had been previously convicted of treason for using some discourteous language respecting the Queen. Mr. Attorney now complained much that “Sir John protested his innocence to seduce and deceive the audience to think him innocent, whereas it was most manifest that he was most justly condemned of

\* “*Solicitor Delegates submonuit quid de illis et eorum honoribus fortunis et posteris fieret si regnum ita transferretur.*” — Camb. Eliz. vol. i. p. 430. See 1 St. Tr. 1188.

† Camden’s account of this proceeding agrees substantially with that in the State Trials. “*Egertonus Solicitor, sive procurator secundarius, his summation repetitis, Majestatem laesisse arguit ex triplice temporis distinctione, scilicet priusquam classis Hispanica advenaret, cum advenerit, cum fugeret,*” &c. — Camd. Eliz. vol. ii. p. 6. 1 St. Tr. 1249.

most heinous treasons, and that in his trial he received most favourable hearing." Whereunto Sir John Perrot replied, and said, "Mr. Attorney, you do me wrong now, as you did me before."—"I never did you wrong," said Mr. Attorney.—"You did me wrong," said Sir John. —"Instance wherein I did you wrong," said Mr. Attorney.—"You did me wrong," said Sir John.—"I never did you wrong," said Mr. Attorney. All these speeches were spoken with great vehemency, each to the other.\* But notwithstanding this unseemly altercation, Egerton was a man of mild demeanour, and was never known to be betrayed into such invective and vituperation as his successor indulged in upon the trials of the Earl of Essex and Sir Walter Raleigh.

He now reached the honour of knighthood, which was in that age highly esteemed, and conferred only as the reward of [A. D. 1593.] long service.†

While Attorney General he was appointed Chamberlain of the County Palatine of Chester, an office of considerable power and dignity.‡

On the 10th of April, 1594, he was made Master of the Rolls, as successor to Sir Gilbert Gerrard. In this new office, ably disposing of certain suits which were referred to him, and occasionally assisting the Lord Keeper, he speedily showed the highest qualifications as an Equity Judge, —and the Great Seal was considered his on the next vacancy.

During this interval, having comparative leisure, he exercised his pen, and, amongst other things, wrote a little treatise, which we should have found a great curiosity if it had been preserved to us, "On the Duties of the Office of Solicitor General. This was dedicated to young Francis Bacon, who was then impatiently expecting the office, whom he always patronised, and whose claims he thought he might thus strengthen.§

On the sudden death of Lord Keeper Puckering, Egerton was immediately hailed as his successor. The Queen having made up her mind in his favour, he was sent for to the Court at Greenwich. On the landing at the top of the stair, Lords Cobham and Buckhurst and Sir Robert Cecil were ready to receive him. They conducted him into the Queen's outer private room, where her Majesty was standing

\* 1 St. Tr. 1829.

† I have observed various instances during the Tudor reigns of men being knighted after having been long in the office of Attorney or Solicitor General, Chancellor of the Exchequer, or Speaker of the House of Commons.

‡ Eg Pap. 192.

§ Sir Robert Cecil thanked Egerton in a letter, in which he says, "I have understood, by my cousin Bacon, what a friendly and kind offer you have made him, the better to arm him with your observations (for the exercise of solicitorship), which otherwise may be got with time. I will study to let you know how great an obligation any man's kindness to him doth throw upon me." But as we shall see hereafter, the Cecils were jealous of their kinsman and tried to depress him.

upon a piece of embroidered carpet,—Lord Burghley, the Lord Treasurer, attending her. Him alone, on account of his age and infirmity, she desired to be seated, and she begged him to lean his back against the tapestry.\* Egerton having then knelt down on his right knee, the Queen made a speech, magnifying his fame and fitness for high judicial dignity; and, taking the Great Seal with both her hands, she delivered into his keeping. He remained on his knee, made a suitable reply, acknowledging his insufficiency, and comparing himself disparagingly with his predecessors. Her Majesty placed both her hands on his shoulders, and offered to raise him from the ground.† He was then sworn of the Privy Council; and, having sealed a writ, and gone through the usual forms, he gave the Seal to his purse-bearer, to be borne before him. After which it pleased her Majesty to hold a private conversation with him for near half an hour, and then very graciously to permit him to walk off with the Great Seal.‡

As a special mark of her Majesty's favour, Egerton still continued Master of the Rolls; and he held this office, along with the Great Seal, during the remainder of the present reign. He was so familiarly acquainted with the practice of the Court, and so devoted to the discharge of his judicial duties, that he could easily get through the business of Chancery without any assistance, and the suitors never had such cause to be satisfied since the time of Sir Thomas More, although there had been at the same time both a Lord Chancellor or Lord Keeper and a Master of the Rolls to act as his assistant or deputy.

His appointment to the Great Seal seems to have given universal satisfaction. "The Master of the Rolls," says Reynolds, in a letter to the Earl of Essex, "has changed his style, and is made Lord Keeper—only by her Majesty's gracious favour and her own choice. I think no man ever came to this dignity with more applause than this worthy gentleman."§

So Anthony Bacon, the elder brother of Francis, writing at this time to a friend at Venice, after mentioning the death of Lord Keeper Puckering, thus proceeds,— "into whose place, with an extraordinary speed, her Majesty hath, *ex proprio motu et speciali gratia*,

\* The Close Roll, after stating that Egerton was sent for to Greenwich, thus proceeds: "Et eo ubi ventum est inter horas quintam et sextam ejusdem diei in messaula juxta cacumen gradus honoratissimi Dns Cobham Dns Buckhurst et Robertus Cecil miles aderant quando omnes tres dem Thomam Egerton militem Serenissime Dno Regine presentabant que adtunc in exteriore privata camera insimul aderat ibique stetit super polymitam Phrigiam infra peristromam Regale honoratissimo Dno Burghley Magno Thesaurario Anglie illam attenden. quem ob statem inferm et imbecillem Regina sedere jussit et dorsum suum ad aulea attallica declinare."

† "Dna Regina utriusque suis manibus super humeros ejus impositis modo quodam illam ab humo quasi obtulit sublevare."

‡ "Serenitati sue visum est secum per dimidiatam fere horam colloqui et tunc cum magno sigill. graciissime abire permisit." — Cl. R. 38 Eliz.

§ Birch's Memoirs of Queen Elizabeth.

advanced Sir Thomas Egerton, with a general applause both of court, city, and country, for the reputation he hath for integrity, law, knowledge, and courage. It was his good hap to come to the place freely, without competition or mediator."\* Camden's testimony, though more moderate, is more valuable. "Successit Thomas Egertonus, primarius Regis Procurator, magna expectatione et integritatis opinione."<sup>†</sup>

High as the expectations of the public were of the new Lord Keeper, they were by no means disappointed. Having taken his seat in the Court of Chancery in Easter term with as little parade as possible, he immediately proceeded to the despatch of business, and from the beginning he afforded the example of a consummate Judge. He was not only courteous in his manner, but quiet, patient, and attentive — waiting to be instructed as to the facts and law of the case by the counsel who had been studying them — never interrupting to show quickness of perception or to anticipate authorities likely to be cited, or to blurt out a jest — yet venturing to put a question for the right understanding of the points to be decided, and gently checking wandering and prolixity by a look or a hint. He listened with undivided attention to the evidence, and did not prepare a speech in parliament or write letters to his correspondents under pretence of taking notes of the arguments addressed to him. Nor did he affect the reputation of great despatch by deciding before he had heard both parties, or by referring facts and law to the Master which it was his own duty to ascertain and determine. When the case admitted of no reasonable doubt, he disposed of it as soon as the hearing was finished. Otherwise, he carried home the papers with him, — not throwing them aside to moulder in a trunk, till, driven by the importunity of counsel asking for judgment, he again looked at them, long after the arguments he had heard were entirely forgotten and he could scarcely make out from his "breviate book" the points that had been raised for his decision — but within a short time spontaneously giving judgment in a manner to show that he was complete master of the case, and never aggravating the anguish of the losing party by the belief that if the Judge had taken more pains the result would have been different. Being himself Master of the Rolls, and in those days there being no Vice-chancellors — he was tried as a Judge of appeal only on exceptions to the Master's reports; but on such occasions he did not grudge the necessary trouble to understand the matters submitted to him, nor shrink from the responsibility of reversing what he considered to be erroneous.

Although a few of his judgments are mentioned in Tothill and other compilers, none of them have come down to us in a shape to enable us to form an opinion of their merits; but they are said to have been distinguished for sound learning, lucid arrangement, and great precision of doctrine.

\* Birch's Memoirs of Queen Elizabeth.

† Cam. Eliz. vol. ii. 128.

The only persons by whom he was not entirely approved were the Common-law Judges. He had the boldness to question and correct their pedantic rules more freely than Lord Keeper Puckering, Lord Keeper Bacon, or any of his predecessors had done, and not unfrequently he granted injunctions against execution on common-law judgments on the ground of fraud in the plaintiff, or some defect of procedure by which justice had been defeated. He thus not only hurt the pride of these venerable magistrates, but he interfered with their profits, which depended mainly upon the number of suits brought before them, and the reputation of their respective Courts. These jealousies, which began so soon after his appointment, went on constantly increasing, till at last, as we shall see, they produced an explosion which shook Westminster Hall to its centre.

In this struggle he finally triumphed over the common-law Judges; but they entirely defeated him in an attempt which he made to strengthen the jurisdiction of his Court by the imposition of fines. It had always been held, as it now is, that a decree in Chancery does not directly bind the land like a judgment of the Court of Common Pleas, and that it can only be enforced by imprisonment of the person. Egerton imposed a fine upon Sir Thomas Thomilthorp for not performing his decree in Chancery concerning lands of inheritance, and estreated it into the Exchequer, with a view of its being there levied by Crown process. The party pleaded that the fine was illegal, "and upon debate of the question in Court and good advisement taken, it was adjudged that the Lord Chancellor had no power to assess any such fine, for then, by a mean, he might bind the interest of the land where he had no power, but of the person only, and thereupon the said Sir Thomas Thomilthorp was discharged of the said fine."<sup>\*</sup>

Not satisfied with this, Egerton made another experiment with the like view and the like success. For non-performance of a decree against one Waller he fined him, and upon process of extent out of Chancery seized his lands in Middlesex, "whereupon Waller brought his assize in the Court of Common Pleas, where the opinion of the whole Court agreed *in omnibus* with the Court of Exchequer."<sup>†</sup>

We have on record a very striking instance of the vigour with which he strove to correct the prolixity of the written pleadings in his Court. In a case of Mylward v. Weldon, there being a complaint of the length of the Replication, and the Lord Chancellor being satisfied that "whereas it extended to six score sheets, all the matter thereof which was pertinent might have been well contained in sixteen," an order was made in these words: — It appearing to his Lordship, by the confession of Richard Mylward, the plaintiff's son, that he did devise, draw, and engross the said Replication, and because his Lordship is of opinion that such an abuse is not in any sort to be tolerated — proceeding of a malicious purpose to increase the defendant's charge, and

\* Sir Thomas Thomilthorp's case, 4 Inst. 84.

† Waller's case, 4 Inst. 84.

being fraught with much impertinent matter not fit for this Court ; it is therefore ordered that the Warden of the Fleet shall take the said Richard Mylward into his custody, and shall bring him into Westminster Hall on Saturday about 10 of the clock in the forenoon, and then and there shall cut a hole in the myddest of the same engrossed Replication, which is delivered unto him for that purpose, and put the said Richard's head through the same hole, and so let the same Replication hang about his shoulders with the written side outward, and then, the same so hanging, shall lead the same Richard, bareheaded and barefaced, round about Westminster Hall whilst the Courts are sitting, and shall shew him at the bar of every of the three Courts within the Hall, and then shall take him back again to the Fleet and keep him prisoner until he shall have paid 10*l.* to her Majesty for a fine, and 20 nobles to the defendant for his costs in respect of the aforesaid abuse, which fine and costs are now adjudged and imposed upon him by this Court for the abuse aforesaid."\* The order should have gone on to require that a print of the unlucky Richard, with his head peeping through the volumes of sheep skin, should, *in terrorem*, be hung up in the chambers of every equity draughtsman.

During a year and a half, Lord Keeper Egerton had few distractions from the discharge of his judicial duties ; but in the end of 1597, the exhausted state of the Exchequer, from the great charges [Oct. 25.] of the Spanish war, compelled Elizabeth reluctantly to call a parliament. On the first day of meeting, the Queen being seated on the throne, he, by her command, declared to the two Houses the cause of the summons. After confessing that the royal presence of her Majesty, the view of such an honourable assembly, the weightiness of the service, and his own weakness, appalled him much, he gives a florid description of the prosperity of the kingdom, with a compliment to the Queen's extraordinary modesty. "This *Her Majesty is pleased to ascribe* to the great power and infinite mercy of the Almighty ; and *therefore* it shall well become us all most thankfully, on the knees of our hearts, to acknowledge no less unto his holy name." Next comes a most excellent passage on Law Reform, very applicable to the present time. "And whereas the number of the laws already made are very great, some also of them being obsolete and worn out of use ; others idle and vain, serving to no purpose ; some again over heavy and too severe for the offence ; others too loose and slack for the faults they are to punish, and many of them so full of difficulties to be understood that they cause many controversies ; you are therefore to enter into a due consideration of the said laws, and where you find superfluity to prune, where defect to supply, and where ambiguity to explain, that they be not burthensome, but profitable to the commonwealth. He then strongly presses for a supply, — thus concluding, "Quod justum est necessarium est ; nothing can be more just than this war ; nothing ought to be more necessary than carefully to provide due maintenance for the same."

\* Reg. Lib. A. 1596. f. 672.

Serjeant Yelverton being presented at the bar as Speaker-elect, the Lord Keeper, in the Queen's name, overruled his disqualification\*, and gave her assent to his prayer for the ancient liberties and privileges of the Commons, "with admonition, however, that the said liberties and privileges should be discreetly and wisely used, as was meet."†

The Lord Keeper not yet being a Peer, during the session he had only to put the question in the House of Lords, without taking any share in the debates; but he was once asked his opinion on a question of precedence. Thomas Howard, second son of the Duke of Norfolk, [FEB. 9, 1598.] being created Baron Howard de Walden, claimed to take place next after Earls, as the younger son of a Duke was considered by the heralds of higher rank than a Viscount; but, by the advice of the Lord Keeper, he was placed below all Barons, without prejudice to his precedence elsewhere.

A subsidy being granted, the attempts in the Commons at law reform became very distasteful to the Queen; particularly a bill to put down the nuisance of monopolies, now becoming intolerable and causing deep and universal discontent; and she brought the session to a speedy close. The Lord Keeper then, by her order, rebuked the Commons for their presumption: "Touching the monopolies, her Majesty hoped that her dutiful and loving subjects would not take away her prerogative, which is the chieffest flower in her garden, and the principal and head pearl in her crown and diadem, but that they would rather leave that to her disposition."‡

After the death of the great Lord Burghley, although his son, Sir [AUG. 4, 1598.] Robert Cecil, was the Queen's chief Councillor, she never was under the sway of any one minister, and Egerton enjoyed a considerable share of her confidence. He was accordingly named chief Commissioner to negotiate in London a treaty with the Dutch, and after long conferences with their ambassadors, an advantageous treaty was signed — by which the Queen was eased of an annual charge of 120,000*l.*, the payment of the debt due to her was secured, and a large subsidiary force was stipulated for in case of a Spanish invasion.

In 1601, the Lord Keeper was again employed as a diplomatist in

\* We have not the particulars of Yelverton's disqualifying speech at the bar of the House of Lords, but it was probably a repetition of that in the Commons, where he expressed wonder how he came to be chosen, "as it could not be for his estate, his father dying having left him only a small annuity." "Then," said he, "growing to man's estate and some small practice of the law, I took a wife, by whom I have had many children, the keeping of us all being a great impoverishment to my estate, and the daily living of us all nothing but my daily industry. Neither from my person nor nature doth this choice proceed; for he that supplieth this place ought to be a man big and comely, stately and well spoken, his voice great, his courage majestic, his nature haughty, and his purse heavy; but contrarily, the stature of my body is small, myself not so well-spoken, my voice low, my carriage lawyer-like and of the common fashion, my nature soft and bashful, my purse thin, light, and never yet plentiful." — 1 Parl. Hist. 898.

† Ib. 895.

‡ Ib. 906.

concluding a treaty with Denmark, whereby an important ally was secured, and the Protestant interest in Europe was materially strengthened.

He nowhere appears to greater advantage than in his conduct to the Queen's favourite, the Earl of Essex. This young nobleman had high and generous qualities along with great faults. Egerton did not, like others, flatter his vices during his prosperity, nor abandon him when his imprudence had involved him in difficulties and ruin was impending over him. Although unequal in age, and of very dissimilar characters and pursuits, a great intimacy had subsisted between them almost from the time of Essex's first appearance at Court; and now that Sir Thomas was in the dignified position of Lord Keeper, he exercised all his influence and authority to correct the irregularities of his youthful friend, and to rescue him from the consequences of his imprudence.\*

Queen Elizabeth, in a fit of anger, having given her favourite a box on the ear, accompanied with the words "Begone and be hanged," he thought that, though the insult came [A. D. 1598.] from a woman, as she was his Sovereign it ought to be resented, and clapping his hand to his sword, he swore "he would not bear such usage were it from Henry VIII. himself." In a great passion he withdrew from Court. The Lord Keeper immediately gave him salutary advice in a long and most excellent letter, from which I shall make a few extracts. "It is often seen, that he that is a stander by seeth more than he that played the game, and for the most part any man in his own cause standeth in his own light. You are not so far gone but you may well return. The return is safe, but the progress dangerous and desperate. If you have any enemies, you do that for them which they could never do for themselves, whilst [Octr. 1598.] you leave your friends to open shame and contempt, forsake yourself, overthrow your fortunes, and ruin your honour and reputation. My good Lord, I want wisdom to advise you, but I will never want an honest and true heart to wish you well; nor, being warranted by a true conscience, to forbear to speak what I think. I have begun plainly. I hope your Lordship will not be offended if I proceed still after the same fashion. *Bene cedit qui tempori cedit.* And Seneca saith, *Lex si nocentem punit, cedendum est justitiae; si innocentem, cedendum est fortunae.* The best remedy is not to contend, and strive, but humbly to submit. Have you given cause, and take scandal to yourself? Why then all you can do is too little to make satisfaction. Is cause of scandal given to you? Yet policy, duty, and religion

\* "They live and join very honourably together — out of which correspondency and noble conjunction betwixt Mars and Pallas, betwixt justice and valour, — I mean betwixt so admirable a nobleman as the Earl, and so worthy a justice as the Lord Keeper, I doubt not but very famous effects will daily spring to her Majesty's honour, the good of the state, and the comfort of both their Lordship's particular true friends." — Birch's *Memoirs of Queen Elizabeth.* *Letter of Anthony Bacon.*

enforce you to sue, yield, and submit to your Sovereign, between whom and you there can be no proportion of duty.”\*

Essex, unsubdued, thus replied: “Although there is not that man this day living whom I should sooner make a judge of any question that did concern me than yourself, yet must you give me leave to tell you, that, in such a case, I must appeal from all earthly judges, and if in any, then surely in this, where the highest Judge on earth hath imposed upon me without trial or hearing the most heavy judgment that ever hath been known. When the vilest of all indignities is done unto me, doth religion enforce me to sue, or doth God require it? Is it impiety not to do it? Why, cannot Princes err? Cannot subjects receive wrong? Is an earthly power infinite? Pardon me, my Lord, I can never subscribe to these principles. Let Solomon’s fool laugh when he is stricken; let those who mean to make their profit of Princes’ show no sense of Princes’ injuries. As for me, I have received wrong, I feel it; my cause is good, I know it; and whatsoever happens, all the powers on earth can never exert more strength and constancy in oppressing than I can show in suffering every thing that can or shall be imposed upon me. Your Lordship, in the beginning of your letter, makes me a player and yourself a looker-on, and me a player of my own game, so you see more than I: but give me leave to tell you that, since you do but see and I do suffer, I must of necessity feel more than you.”

This correspondence, when circulated and brought to the notice of the Queen, incensed her for a time still more against Essex; but he was at last induced, by the verbal advice of the Lord Keeper, to apologise, and never having lost his place in her heart, he soon regained his ascendancy in her Councils, and after the death of Burghley, who always strove to depress him, he was for a time considered her chief Councillor, till he imprudently took upon himself the office of Lord Deputy of Ireland to quell the rebellion in that country,—whereby he exposed himself to the hazards of a very disagreeable service, and left the field at home open to the intrigues of his enemies.

During Essex’s absence in Ireland, the Lord Keeper did what was possible with the Queen to place his actions in the most favourable point of view, but she was so much disappointed by his want of success against Tyrone, and so much provoked by his presumption and obstinacy, and so much exasperated by the representations of the Cecils, who turned every incident to account in their struggle for undivided power,—that he thought his only chance was to try the effect of his personal presence,—an experiment that had once succeeded with Leicester her former favourite. He presented himself in her bed-room at Nonsuch, while she was still at her toilette, and her hair was scattered over her face. Thus surprised, she at first gave him rather an affectionate welcome;

\* Birch, Mem. Eliz. vol. ii. 384.

but when she had leisure to reflect upon his conduct she was very much dissatisfied, and (according to English fashion) resolved to have him brought to trial for high treason,—had it not been that, by an extraordinary effort of courage, the Judges and law officers reported that disobedience of orders and return without permission did not exactly amount to that offence.

Nevertheless, he was examined before the Privy Council, suspended from all his employments, and committed to the custody of the Lord Keeper, to be kept in ward at York House. It seems strange to find a great noble, or an officer of state, turned into a gaoler; but this was by no means an unprecedented course where a milder and more honourable imprisonment was to be inflicted; and the Queen of Scots had been for many years in the custody of the Earl of Shrewsbury.

The Lord Keeper now rendered to his prisoner all those kind offices that humanity the most sensible, and politeness the most delicate, could suggest; and, when he had to sit judicially upon his case, tempered justice with compassion, preserving a proper medium between the duty of the magistrate and the generosity of the friend. There is preserved a warm-hearted effusion of his in the shape of a letter from the Court at Richmond by way of consolation and advice to his prisoner:

“Her Majesty is gracious towards you, and you want not friends to remember and commend your former services. Of these particulars you shall know more when we meet. In the mean time, by way of caution, take this from me; there are sharp eyes upon you; your actions, public and private, are observed; it behoveth you, therefore, to carry yourself with all integrity and sincerity both of hands and heart, lest you overthrow your own fortunes and discredit your friends, that are tender and careful of reputation and well-doing.

“So in haste I commit you to God with my hearty commendations,  
“And rest  
“Your assured loving friend,  
“THOMAS EGERTON, C. S.

“At the Court at Richmond,  
October 21. 1599.”

The first public proceeding against Essex was in the Star Chamber, and a sketch of it may be interesting, as showing how this tribunal was then used, not only to putash obnoxious individuals, but as an instrument to lead public opinion in the absence of government newspapers and parliamentary reports. On the day after Michaelmas term, the Lord Keeper, the Lord Treasurer, the Lord Admiral, the Lord Chamberlain, most of the other ministers, and nearly all the Judges, assembled in the usual place of meeting at Westminster, and an immense crowd from the City of London attended. The object was to check “the dangerous libels cast abroad in court, city, and country, as also by table and alehouse

talk, both in city and country, to the great scandal of her Majesty and her council."

The Lord Keeper opened with a long speech. He first declared it to be her Majesty's pleasure and express command, that all justices of the peace should forthwith repair to the country, there to exercise hospitality and to preserve the public tranquillity. He lamented that, at this time, there were very many seditious people breeding rebellion by vomiting abroad many false and slanderous speeches against her Majesty and Council concerning the affairs of Ireland, and publishing many scandalous libels, "which kind of people he did censure to be no better than traitors." Therefore, in her Majesty's name, he commanded all Judges, Justices, and other officers, to proceed diligently against all such talkers of sedition and makers of such libels, and all who kept company with them, that the authors thereof might be the better bouldt out and known, and those who, by the ancient laws of this realm, were traitors might received due punishment.

"To stop the mouths of all seditious discoursers and traitorous libellers, and to satisfy all that have true and faithful hearts to judge, and any common sense to discern, it shall not be amiss, in a matter so manifest, to remember some particularities, to the end that it may demonstratively appear that there was never Prince did, with greater care and more royal means, provide to suppress rebellious subjects, and to preserve a torn and declining kingdom, than her Majesty hath done for this accommodation of Ireland."

The Lord Keeper proceeds with a narrative of the formidable preparations for putting down Tyrone's rebellion, of the great military force and resources intrusted to Essex, and the wise instructions he had received. He then complains of the General's inaction, and still more of his conference and composition with the arch-rebel, and his unwarranted return from Ireland. "In this dangerous and miserable state he presumed to leave that realm, and to come over hither under pretext to present unto her Majesty this dishonourable and deceitful composition, with no better assurance than the rebel's own word for temporary cessation of arms.

"These thinges being thus, what malicious and traitorous hearts can bear these insolent and wicked persons, that dare intrude into the counsels of a Prince, and take upon them to censure their Sovereign for that which either she hath done or which God shall direct her heart to do in a matter of so high and weighty importance?"

The Lord Treasurer Buckhurst, the Earl of Nottingham, High Admiral, Mr. Secretary Cecil, and others of the Council, severally addressed the assembled multitude to the same effect, and then the Court adjourned,—the ministers having had the advantage of publicly praising their own measures, and inveighing against all opposition to them, without any danger of a reply or division.\*

\* The reporter, Francis Woodward, in a letter to Sir Robert Sidney, after giving the first three speeches at great length, says, "the rest did speak so softly, and the

Essex remained in the custody of the Lord Keeper above six months without being brought to trial, the Queen saying that she wished "to correct, not to ruin him." During this time he fell, or pretended to fall, dangerously ill. She ordered eight physicians, of the best reputation, to visit him; and being informed that the issue was much to be apprehended, she sent him some broth, with a message that if she thought such a step consistent with her honour she would herself pay him a visit. He recovered; but a suspicion being instilled into Elizabeth that his distemper had been counterfeit in order to move her compassion, she relapsed into her former rigour against him. She was, however, so far softened by his protestations, that she released him from his imprisonment under the Lord Keeper, and allowed him to reside in his own house in the Strand, and he probably would have escaped with entire impunity had not the complaints of his family and friends raised such a public clamour against the harsh treatment of the individual, who had the rare fortune to be much beloved by the people as well as by the Sovereign. She at last ordered him to be tried—not before the Star Chamber, or any recognised tribunal, but before eighteen Commissioners, consisting of the Lord Keeper, the Lord Treasurer, the Lord Admiral, most of the great officers of state, and five of the Judges. They assembled in the hall of York House, and sat in chairs at a long table for eleven hours, from eight in the morning till seven at night.

His treatment gives us a strange notion of the manners of the times. At his entrance the Commissioners all remained covered, [JUNE 5, 1600.] and gave no sign of salutation or courtesy. He knelt at the upper end of the table, and for a good while without a cushion. He was at last supplied with one on the motion of the Archbishop of Canterbury; but he was suffered to kneel till after the Lord Keeper had expounded the nature of the Commission, and till the end of the speech of the Queen's Serjeant, who opened the case for the Crown. He was then allowed to stand up, and by-and-by, through the interference of the Archbishop, he was indulged with liberty to sit on a stool.

He opened his defence by offering thanks to God for his mercy, and to the Queen for her clemency towards him, and was proceeding to justify his conduct, when the Lord Keeper (probably from a friendly motive) interrupted him, telling him "this was not the course that was likely to do him good; that he began well by submitting himself to her Majesty's mercy and pardon, which himself and the

throne and press so mighty, that I was driven so far back that I could not hear what they said. I came not in time to take a place where I might conveniently hear all such matters as were there declared."—*Sydney State Papers*, vol. ii., p. 146. This reminds one of the abrupt termination to the report of the famous case of **STRADLING v. STYLES**, in which the question was, whether under a bequest of all the testator's *black and white horses, FYMBALLED HORSES* passed, — as reported by Martinus Scriblerus: "Le teste del argument leo ne pouvois oyer car leo fui disturb en mon place." — *Pope's Miscell.* vol. iv. p. 210.

rest of the Lords were glad to hear, and no doubt her princely and gracious nature was by that way most likely to be inclined to favour; that all extenuation of his offence was but the lessening of her Majesty's mercy in pardoning; that he, with all the other Lords, would clear him of all suspicion of disloyalty, and that therefore he might do well to spare the rest of his speech, and save time, and commit himself to her Majesty's mercy."

Essex replying "that he spoke nothing but only to clear himself from a malicious corrupt affection,"—the Lord Keeper told him, that "if he meant the crime of disloyalty, it was that which he needed not to fear, all that was now laid to him being contempt and disobedience, and that it was absurd to cover direct disobedience by a pretended intention to obey. If the Earl of Leicester did evil in coming over contrary to the Queen's commandment, the Earl of Essex did more in imitating the Earl of Leicester, and was so much the more to be punished for it." After a warm panegyric on the Queen and her Irish government, he then proceeded to pronounce sentence, which, he said, "In the Star Chamber must have been the heaviest fine ever yet imposed, and perpetual imprisonment in the Tower; but in this mode of proceeding the Court, out of favour to him, merely ordered that he should not execute the office of Privy Councillor, nor of Earl Marshal of England, nor Master of the Ordinance; and that he should return to his own house, there to remain a prisoner during the Queen's pleasure."

The sentence, or "censure," as it was called, so pronounced by the Lord Keeper, was dictated by the Queen, who, to bring him again near her person, had directed that the office of "Master of the Horse" should not be included among those for which he was disqualified; and the Court may be absolved from any great violation of the constitution on this occasion, as the whole of the punishment might have been inflicted lawfully by her own authority—with the exception of the imprisonment,—which she immediately remitted.

But Egerton had still to pass through extraordinary scenes in connection with Essex, to whom Elizabeth now behaved with a mixture of fondness and severity, which drove him to destruction. He for some time seemed completely restored to her favour, and then she refused to renew his monopoly of Sweet Wines, saying that "an ungovernable beast must be stinted in his provender." He thought that she had completely surrendered herself to the Cecils and Sir Walter Raleigh, and he entered into the conspiracy to raise the city of London, where he was so popular, and by force to get her person into his power, and to rid himself of his enemies.

On the memorable Sunday, the 8th of February, 1601, when he had collected a large force in Essex House, in the Strand, and was about to execute his project with the assistance of the Earls of Southampton and Rutland,—the Queen being informed of these designs, and having ordered the Lord Mayor and Aldermen to take measures to secure the peace of the city, she directed the Lord Keeper, with

Chief Justice Popham, the Earl of Worcester, and Sir William Knollys, controller of the household, to repair to Essex House, and demanding admittance, to require in her name that the disturbers of the public peace should disperse, and that the law should be obeyed.

This was a service by no means free from danger, for it was well known that Essex had for some weeks been collecting under his roof many desperate characters who had lately returned from the wars in Ireland and in the Low Countries, and who were likely to pay very little respect to civil magistrates, however exalted their station. The Lord Keeper proceeded on his mission with great firmness, being preceded by his purse-bearer carrying the Great Seal, and followed only by the ordinary attendants of himself, the Chief Justice, and his other companions.

Arriving at the gate of Essex House, a little before ten in the forenoon, they were refused admittance. They desired that it might be intimated to the Earl that they came thither by the express command of her Majesty. He gave orders that they should be introduced through the wicket, but that all their attendants, with the exception of the purse-bearer, should be excluded. On entering, they found the court yard filled with armed men. The Lord Keeper demanded in the Queen's name the cause of this tumultuary meeting. Essex answered, "There is a plot laid for my life; letters have been counterfeited in my name, and assassins have been appointed to murder me in bed. We are met to defend our lives, since my enemies cannot be satisfied unless they suck my blood." The Chief Justice said, the Queen would do impartial Justice; and the Lord Keeper desired Essex to explain his grievances in private, — when several voices exclaimed, "They abuse you, my Lord; they are undoing you. You lose your time." The Lord Keeper, undaunted, turned round, and putting on his hat, in a calm and solemn tone, as if he had been issuing an order from his tribunal, — in the Queen's name commanded them upon their allegiance to lay down their arms and to depart. Essex entered the house, and the multitude, resolved to offer violence to these venerable magistrates, but divided as to the mode of doing so, shouted out, "Kill them, keep them for pledges, throw the Great Seal out of the window." A guard of musketeers surrounded them, and conducting them through several apartments filled with insurgents, introduced them to a small back room where they found the Earl, who was about to sally forth in military array to join his friends at Paul's Cross. He requested that they would remain there patiently for half an hour, and himself withdrawing, ordered the door to be bolted, and left them as prisoners in the care of Sir John Davis and Sir Gilly Merrick, guarded by centinels bearing muskets primed and cocked. Here they remained for some hours listening to the shouts of the insurgents and the distant discharge of fire-arms. They frequently required Sir John Davis to allow them to depart, or at least to permit some one of them to go to the Queen to inform her where they were;

but the answer was, "My Lord has commanded that ye depart not before his return, which will be very shortly."

They were at last released by the intervention of Sir Ferdinando Gorges. He had accompanied the assailants into the city,—but there being no assemblage of citizens at Paul's Cross as had been promised,—the Sheriff, on whose aid much reliance was placed, having refused to join them,—Lord Burghley and the Lord Admiral having arrived with a considerable force from Westminster,—and a herald having proclaimed the leader of the insurrection a traitor,—he saw that the enterprise was desperate, and he thought only of his own safety. With this view he asked authority from Essex to go and release the Lord Keeper and the other prisoners, representing that for their liberty they would undertake to procure the Queen's pardon for all that had happened. Essex consented to the release of Chief Justice Popham upon his entering into such an undertaking, but positively required that the others should be detained as hostages. Gorges hating to Essex House reached it about four in the afternoon. Being admitted to the presence of the prisoners, he offered Popham his liberty on condition of his intercession and good offices; but the Chief Justice magnanimously refused the offer unless the Lord Keeper should be permitted to accompany him.\* After some consultation Gorges concluded that the best plan for himself would be that he should forthwith release all the four, and, accompanying them to the Court, leave Essex to his fate. Accordingly, pretending that he had authority to that effect, he conducted them by a back staircase into the garden on the bank of the river Thames. Here they found a boat which they immediately entered, and by a favourable tide they were quickly conducted to the Queen's palace at Whitehall. They had hardly got clear from their imprisonment when Essex himself arrived at the spot where they embarked, having returned by water from Queen Hithe, after all his friends in the city had deserted him. His rage was excessive when he found that his prisoners had escaped; and now despairing of success or mercy, he resorted to the vain attempt of fortifying his house, and resisting the ordnance brought from the Tower to batter it down.

The Lord Keeper remained at Whitehall with the Queen till news was brought of the surrender of Essex, and then he sorrowfully took leave of her. She had behaved with the greatest composure and courage while danger existed, but she could not without emotion give directions for bringing to trial for high treason the unhappy young nobleman, who, notwithstanding all his faults, had still such a strong hold of her affections.

The trial speedily took place in the Court of the Lord High Steward

\* Some accounts are silent as to the magnanimity of Popham; but Camden's contemporary testimony can leave no doubt upon the subject. "Comes annuit ut solus Pophamus Justitiarius liberetur, qui cum liberari nollet, nisi Custos Sigilli una liberatur, Gorgius liberavit singulos, et cum illis per flumen ad Regiam se contulit." — Camd. Eliz. vol. ii. p. 225.

in Westminster Hall. The Lord Keeper, not being [FEB. 19, 1601.] a peer, was spared the pain of joining in the sentence of condemnation; but he was summoned as a witness. Trials for treason were at this era in a sort of transition state. The great bulk of the evidence against the Earl of Essex and the Earl of Southampton, who was tried along with him, consisted of written examinations, and among them was "the declaration of the Lord Keeper, the Earl of Worcester, and the Lord Chief Justice of England," containing a narrative of their imprisonment, and signed by the three. They were likewise called as witnesses, and "proved in Court *upon their honours*," that they heard the words 'Kill them, Kill them'; but they would not charge my Lord of Essex, that they were spoken either by his privity or command."† They were much more forbearing than the counsel for the Crown, Coke and Bacon, who, to the disgrace of both, showed very unnecessary zeal in procuring a conviction,—for the Judges declared, according to what has ever since been held for law, "that in case where a subject attempteth to put himself into such strength as the King shall not be able to resist him, and to force the King to govern otherwise than according to his own royal authority and discretion, it is manifest rebellion, and in every rebellion the law intendeth as a consequent the compassing the death of the King, as foreseeing that the rebel will never suffer the King to live or reign who might punish or take revenge of his treason and rebellion." The prisoners did not deny that they intended forcibly to seize the Queen's person, although they insisted that they loved and honoured her, and only wished to rid her of evil councillors.

After his conviction, Essex, at his own request, had an interview in the Tower with the Lord Keeper and other ministers of the Queen, and asking pardon of him for having imprisoned him, took a tender leave of him, and thanked him for all his kindness. The unhappy youth might still have been saved by the good offices of Egerton and other friends, and the inextinguishable regard which still lurked in the royal bosom, if the Queen had not waited in vain for the token of his true repentance which he had intrusted to the false Countess of Nottingham, and which being at last produced gave such agony to the last hours of Elizabeth.

In the meanwhile her grief was somewhat assuaged by appointing the Lord Keeper under a Commission, to summon all who had been implicated in Essex's plot, in order to treat and compound with them for the redemption of their estates, and the Exchequer was filled by the fines imposed upon them as the condition of their pardon.‡

\* Nevertheless they appear to have been sworn. Camden says, "Summus Anglie Justitiarius Pophamus rogatus et *juratus* quam indigne Consiliarii habiti fuerunt." — Camd. Eliz. vol. ii. p. 231.

† 1 St. Tr. 1340. The prisoner spoke of them with great respect. "Essexius respondet se in honoratissimos illos viros nihil mali cogitasse at summo cum honore observasse." — Camd. Eliz. vol. ii. p. 231.

‡ Rym. F. tom. xvi. 421.

We must now look back to the events which were happening to the Lord Keeper in domestic life. In January, 1599, he had the misfortune to lose Lady Egerton, his second wife, to whom he was most affectionately attached;\* and when he was beginning to recover his composure, he received the sad news of the death of his eldest son in Ireland, a very fine young man, who had been struck with a passion for military glory, and was serving under the Earl of Essex.†

However, in the following year, he comforted himself by marrying his third wife, the Countess Dowager of Derby, celebrated in her youth by Spenser, under the name of Amaryllas, and afterwards the patroness of the early genius of Milton, who wrote his *Arcades* for her amusement.

## CHAPTER XLVIII.

### CONTINUATION OF LIFE OF LORD ELLESMORE TILL THE END OF THE REIGN OF ELIZABETH.

We have seen that when Egerton was intrusted with the custody of the Great Seal, he still retained his former office in the Court of Chancery. In the first instance, it was intended that [A.D. 1601.] this arrangement should only be temporary; and there were, as might be expected, several aspirants to the Rolls. Among these, the most pushing and importunate was Serjeant Heele, a lawyer

\* "My Lady Egerton died upon Monday morning; the Lord Keeper doth sorrow more than the wisdom of soe great a man ought to doe. He keapes privat, hath desired Judge Gawdy to sit in Chancery, and it is thought that he will not come abroade this terme." — Letter from Rowland Whyte, Esq., to Sir Robert Sydney, 24th January, 1599. *Sydney Papers*, vol. ii. p. 164.

† His father had wished to breed him to the law, but consented at last to his becoming a soldier.

"I wysh my sonne woulde have gyven hym selfe to have attended these things; but his mynde draweth hym an other course to folowe the warre, and to attende My L. of Essex into Irelande, and in this he is so farre engag'd that I can not staye him, but must leave him to his wille, and praye to God to guyde and blesse him." — Letter of Lord Keeper to his brother-in-law, dated 6th March, 1598. — Ellesmere MS.

Letters of condolence on his son's death poured in from all quarters. I give as a specimen one from George More of Losley: — "Yt was the providens of God that your sonne was borne; so was it that he died: he was your's but for a terme of his life, whereof the thred once spunne cold not be lengthened, and the dayes numbered one day cold not be added by all the worldes power. In his byrth as in his death was the hand of the Lord God; in the one for your comfort; in the other for your tryall; in bothe for your good, if in bothe you glorifie God. What comfort greater can be than to have a sonne brought up in the feare of God, to spend the first and to end the last of his strength in the favour and service of his Prince?" — Ellesmere MS.

of considerable vigour and capacity, who had raised himself to extensive practice, and amassed great wealth by very doubtful means. His promotion would have been exceedingly disagreeable to the Lord Keeper, who therefore wrote the following memorial that it might be submitted to the Queen.

“ The name and office of a delator ys odious unto me ; I abhorre yt in nature, and besydes yt fytteþ not my place and condition ; yet my duetye to my gracious Sovereign & countrye informeth me speciallye being commanded to set down what I have hearde S. H. charged with, — that thereupon her Ma<sup>re</sup> may make judgement how unfyt & unworthye this man ys for so worthye a place as he seketh.

1. “ He is charged to have bene long a grypinge and excessive userer. Agaynst such persons the Chancerye doethe gyve remedye, which yt is not lykelye he will doe, being hym self so great & so commen an offender in the same kynde.

2. “ He is charged to have bene longe a moast gredye & insatiable taker of excessive fees and (which is moost odious) a notorious & common ambodexter, takinge fee on both sydes, to the great scandale of his place and profession.\*

3. “ By these wycked vyle meanes he is growne to great wealthe & lyely-hood, and therby puffed uppe to such extreme heyghe of pride that he is insociable, and so insolent & outrageous in his words & behaviour towards such as he hath to deale with (though men much better then hym selfe) as is too offensive & intollerable. As, namelye, against the Byshoppe of Excester, Sir Richard Champeron, Sir Edmunde Morgan, Mr. Benjamin Tychbourne, and many others.

4. “ He is noted to be a great drunkarde, and in his drunkennesse not onlye to have commonly used quarrelynge and brawlenge words, but sometyme blowes also ; and that at a common ordynarye, a vice ille beseeminge a Serjeant, but in a Judge or publicke Magistrate intollerable.”†

The Serjeant persisting in his suit, the Lord Keeper outwardly kept on good terms with him, found it convenient to pretend to support him, and, strange to say, was all the while indebted to the “ grypinge userer, ambodexter, drunkarde, & brawler” in the sum of 400*l.*

\* In the middle of the last century such practices at the bar were still suspected, there being on the stage “ Mr. Serjeant Eitherside,” and in Westminster Hall “ Sir Bullface Doublefie.”

† Among Lord Ellesmere’s papers there is a draught of this memorial in his own handwriting, with the following introduction, which upon consideration he had omitted : “ I see myne error in presumyng that my services had deserved this favour to have a socyable person placed so neare me, yf there were none other respecte. But sythence I must open the gate to lett in another, I never suspected that I shoulde be constrainyd to lett in anye agaynst my lykyng and opinion.

“ I accuse and bewayle myne owne mishappe, that my 20 yeare services waye so light, that Serj. H. and his purse should be put in balance agaynst me, — a man of so insolent behaviour and indiscrete carriage, and of so litle worthe, and taxed with so many enormyous crymes and disorders in the course of his lyfe, as none of his profession hath these many yeres bene noted of the lyke.”

for money lent. At last the Serjeant, finding that he was effectually thwarted by the superior influence of the Lord Keeper, wrote him the following curious epistle : —

“ To the Right ho. the Lo. Keeper of the Greate Seale of England,  
&c.

“ It hath byne my spetiall desyre to have your Lo. holde a good opynion of me. I have dealte as became me in all things : what the cause of your sudden mislike with me is I can not gesse, for sure I am I have ever respected and dealte with you as it became me. You know how I came fyrste to intertwaine the hope of the Rolles, and have followed your own directions.

“ I fynde now that my hope, through your hard conceite against me, is desperate. I shall therefore prae your Lo. to delyver to this Bearer my Bandes, and, at your Lo. pleasure, to sende me the 400<sup>l</sup>. you owe me. I shall humblee entreate your Lo. to use me as you doe the meanest of my Brothers. Thus resting humblee your's : from Serjeants Inne, the 14th of November, 1600.

“ Your Lp's in all humblenis,  
“ JOHN HELE.”\*

Serjeant Heele then thought that he might undermine the Lord

\* There is among Lord Ellesmere's papers, a letter to him from Sir Edward Coke, indorsed, “ Ser. Hele, Mr. Attorney,” indicating that it originated from some intrigue between these parties.

“ Right honourable my singular good Lord, — Secrete inquirie have bene made whether your Lo. having not a patent (as all your predecessors had, Cardinall Woolsey excepted, who therefore (as they saye) ranne into a premunire), of the custody of the Greate Seale, be Lord Keeper or no. Howe ridiculous this is, and yet how malicious, your Lo. knowes, and yet though it be to noe purpose, yet my purpose is thereby to signifie a litle parte of that greate dutie I owe unto your Lo., and that in your wisdom you may make some use of it. And so resting ever to doe your Lo. any service with all thankfull readiness, I humblee take my leave this 25 of Jan.

“ Your Lo. humblee at commandment,  
“ ED. COKE.”

From the Egerton Papers<sup>1</sup> published by the Camden Society, and very ably edited by Mr. Payne Collier, it appears that this Serjeant Heele afterwards had a suit before the Lord Keeper respecting a sum of money claimed by him from the executors of Lord Cobham, which, notwithstanding an attempt to make the King interfere in his favour, was determined against him, and that he thereupon wrote the following letter : —

“ To the right honourable my very good Lo. the Lo. Ellesmere, Lo. Chancellor of England.

“ Right Honorable,  
“ I proteste unto God that ever syncse I knewe you, I did trulie desyre your Lo.

Keeper, and perhaps clutch the Great Seal instead of the Rolls—by getting into parliament, and slavishly outbidding the whole profession of the law for the Queen's favour. There being a strong opposition to the subsidy demanded by the Court, thus spoke the legal aspirant, now a representative of the people : —“Mr. Speaker, I marvel much that the House will stand upon granting of a subsidy when all we have is her Majesty's, and she may lawfully, at her pleasure take it from us : yea, she hath as much right to all our lands and goods as to any revenue of her Crown.”\* But, to the honour of the House, he was speedily coughed down, and he confined himself to usury for the rest of his days.

This scene took place in Queen Elizabeth's last parliament. The opening of it was rather inauspicious. The Queen, though she still allowed herself to be flattered for her beauty, was conscious of increasing infirmities, and had taken unusual pains to conceal them from the public gaze ; but, after being seated on the throne, her enfeebled frame was unable to support the weight of the royal robes, and she was sinking to the ground, when the nobleman bearing the sword of state caught her in his arms, and supported her. The Commons were then approaching ; but, in the confusion, the door by which they were to enter was shut, and they were all excluded.

The Lord Keeper, however, that Elizabeth might as soon as possible get back into the open air, proceeded with his oration, explaining the causes of the summonses. He inveighed bitterly against the Pope and the King of Spain, whom he denounced as enemies to God, the Queen, and the peace of this kingdom, and engaged in a conspiracy to overthrow religion, and to reduce us to a tyrannical servitude. He

frydshipp and favor. The contrary conceite hath disquieted me more than the order againste me. If your Lo. wilbe pleased to remove that opynion, I will acknowledge myselfe moste bounde unto you. Thus with remembrance of my humble duetye,

“Your Lo. in all service,  
“JOHN HELE.

“Serjeant's Inn, 5 Januarij, 1504.”<sup>1</sup>

\* 1 Parl. Hist. 921.

† It distinctly appears that this wholesome parliamentary usage was then established. D'Ewes, after giving an account of the Serjeant's speech, thus describes the scene which followed : “At which all the House hemmed, and laughed and talked. ‘Well,’ quoth Serj. Hele, ‘all your hemming shall not put me out of countenance.’ So Mr. Speaker stood up and said, ‘It is a great disorder that this should be used, for it is the ancient use of every man to be silent when any one speaketh ; and he that is speaking should be suffered to deliver his mind without interruption.’ So the Serjeant proceeded, and when he had spoken a little while, saying he could prove his former position by precedent in the times of Hen. III., King John, and King Stephen, the House hemmed againe, and so he sat down.” — 1 Part. Hist. p. 922. King James seems to have taken his law from the Serjeant in his famous conversation with the Bishops.

charged them with attempts to poison the Queen. "I have seen her Majesty," said he, "wear at her girdle the price of her blood: I mean jewels which have been given to her physicians to have that done unto her which I hope God will ever keep from her." He advised that no new laws should be made; but he exhorted them to make provision for our own defence and safety, seeing the King of Spain means to make England miserable, by beginning with Ireland and the territory of the Queen herself. He showed that treasure must be our means, as treasure is the sinews of war.\*

Three days after, the Queen again appeared in the House of Lords, and the Commons presented as their Speaker, Crook, Recorder of London, who, when his disqualification had been overruled by the Lord Keeper, delivered a florid harangue on the peace and prosperous state of the kingdom, which he said had been defended by the mighty arm of our dread and sacred Queen,—when she interrupted him piously and gracefully with these impressive words, "No, MR. SPEAKER, BUT BY THE MIGHTY HAND OF GOD!"

When he prayed for freedom of speech, the Lord Keeper said, "Her Majesty willingly consenteth thereto with this caution, that the time be not spent in idle and vain matter, with froth and volubility of words, whereby the Speakers may seem to gain some reputed credit by emboldening themselves to contradiction, and by troubling the House of purpose with long and vain orations to hinder the proceeding in matters of greater and more weighty importance."

The first act of the Commons after the choice of a Speaker was to complain bitterly of breach of privilege, in being shut out from the House of Lords the first day of the Session,—saying they were yet in ignorance of the causes of calling the parliament. Mr. Secretary Cecil having excused the Lord Keeper,—repeated to them the heads of his speech, and they were appeased.

Notwithstanding the exhortation against any new legislation, there was passed in this Session the famous Poor Law of forty-third Elizabeth, with several other important Statutes still in force,—and a liberal subsidy being granted in return for the abolition of monopolies, the Queen being seated on the throne in the House of Lords, the Lord Keeper, "with what brevity he might—not to be tedious to his most gracious Sovereign," returned thanks in her name, and said, "We all know she never was a greedy grasper, nor straight-handed keeper, and therefore she commanded me to tell you that you have done (and so she taketh it) dutifully, plentifully, and thankfully."† He then dissolved the parliament, and Elizabeth was never again seen by the public with the Crown on her head.

In the following year, however, she paid the Lord Keeper a visit of three days at Harefield, his country house, in Middlesex, near Uxbridge. This delightful place, with the river Colne running through the grounds, was first made by a great lawyer, Lord Chief Justice

\* 1 Parl. Hist. 906.

† Ib. 907.

‡ Ib. 908.

Anderson, from whom it was purchased by the Lord Keeper, and it afterwards gained higher celebrity than could be conferred upon it by a royal visit. Horton, the country-house of Milton's father, where the great poet wrote some of his most exquisite pieces, was in the neighbourhood, a little lower down the stream\*,—and hence the connection between him and the Egerton family, which led to the composition of the *ARCades* and of *Comus*. The former masque, in which the widow of the Lord Keeper is so much complimented†, was written to be performed here.

At this visit of Queen Elizabeth to Harefield, Milton was yet unborn, and no great poet wrote a piece for the occasion; but the Lord Keeper did his utmost in all respects for the entertainment of his royal guest, although the weather was most unpropitious, and the hunting and falconry which had been projected were impracticable. A constant succession of in-door amusements made the three days pass off very agreeably. Shakspeare had lately brought out his immortal tragedy of *Othello*, and the Queen had not seen it played. Accordingly, Burbidge's company were sent for, and a theatre being fitted up in the hall, for which little scenery was then required, the piece was admirably performed by the original actors, whose rehearsal of their parts had been superintended by the author. Succeeding so much better as a writer than as an actor, he himself had now almost entirely withdrawn from the stage, and if he was present it was probably only to assist Burbidge in the management of the entertainments.‡

\* Milton describes this scenery in the Epitaph. Damon.

“Imus! et arguta paulum recubamus in umbra,

Aut ad aquas *Colni*,” &c.

† “Here you shall have greater grace

To serve the Lady of this place;

Such a rural Queen,

All Arcadia hath not seen.”

‡ Some critics have supposed that *Othello* was not produced till 1604, and Dr. Warburton postpones it to 1611; but there can be no doubt that it came out in 1602, and that it was acted before Elizabeth at Harefield. In the Egerton papers, published by the Camden Society, are to be found the accounts of the Lord Keeper's disbursements for this visit, containing the following items:—

“Rewarde to the vaulters, players, and dauncers. Of this x. to BURBIDGE's players: for *Othello*, liijij. xvijij. xij. Rewarde to Mr. Lillye's man, which brought the lottery boxe to Harefield, x.”

These accounts are exceedingly interesting, and give great insight into the manners of the times. In the same collection, there is an equally curious account of the presents of “oxen, mattons, bucka, swans, capons, fish, game, cheeses, fruit, and sweetmeats,” which the Lord Keeper received on this occasion from the Lord Treasurer, the Lord Mayor of London, and near a hundred other friends. Among the contributions is a buck from Sir Thomas Lucy, son of the Sir Thomas who had prosecuted Shakspeare for deer-stealing. Sir George Moor sends, “stage, 1; lobsters, 17; prawns, 200; trouts, 19; breames, 5; pheasantes, 12; partridges, 14; quails, 2½ dozen; swannes, 4; Salsis cockles, 8 cwt.; puettas, 2 dozen; galles, 6; pullets, 9 dozen; pygeons, 3 dozen;” the whole valued only at 20. The Lord Mayor was very liberal with his “sacke, sturgeon, herons, gulls, pervelles, parterages, semondes, and pheasantes.” Lord Norreys, besides bucks, sends 2 oxen.

The less intellectual shows of dancing and vaulting were likewise exhibited for her Majesty's amusement, and a *LOTTERY* was drawn,—with quaint devices, perhaps composed by Ben Jonson, who was the great deviser of amusements for the Court in this and the following reign. I give a sample of the Prizes and Blanks.

*“A MASKE.”*

“Want you a maske? Here, fortune gives you one;  
Yet nature gives the Rose and Lilly none.”

*“A Looking-Glasse.*

“Blind Fortune doth not see how fare you be,  
But gives a Glasse that you yourselfe may see.”

*“A Hand-kerchiefe.*

“Whether you seeme to weepe, or weepe indeede,  
This hand-kerchiefe will stand you well in steed.”

*“A Paire of Garters.*

“Though you have Fortune's garters, you must be  
More staid and constant in her steps than she.”

*“Blanke.*

“Nothing's your lot; that's more than can be told,  
For nothing is more precious than gold.”\*

At her Majesty's departure there was a somewhat clumsy pageant, which I think must have been the invention of the Lord Keeper himself. *HARFIELD* was personified, and, attired as a disconsolate widow in sables, thus bade the Queen farewell,

*“Sweete Majestie!*

“Be pleased to looke upon a poore widdowe, mourning before Your Grace. I am this place which at Your coming was full of joye, but nowe at your departure am as full of sorrowe; as I was then, for my comforde, accompanied with the present cheerful Tyme, but nowe he must depart with You, and blessed as he is must ever flye before You. But alasse! I have no wings as Tyme hath, my heaviness is suche as I must staye, still amazed to see so greate happiness to some, berefete me. O that I could remove with You as other circumstances can! Tyme can goc with You; Persons can goe with You; they can move like Heaven; but I like dull Earthe, as I am indeed, must staye immoveable. I could wishe my selfe like the enchanted castle of love, to hould you here for ever, but Your vertues would dissolve all my enchantments. Then what remedie? as it is against the nature of an angell to be circumscribed in place, so it is against the nature of place to have the motion of an angell. I must staye forsaken and desolate; You may goe, with Majestic joye and glorie. My onely suite before you go, is that You will pardon the close imprisonment which You

The quantity of “preserved apricots, preserved siterons, marmalat, sugirloves, and Bambury cakes,” is quite enormous.

\* Nich. Prog., vol. iii.

have suffered ever since Your comming : imputing it not to me, but to St. Swithen, whoe of late hath raised so many stormes as I was faine to provide this anchor for You (*presenting the Queen with an anchor jewel*) when I understande You would put into this creeke ; but nowe since I perceave the harbour is too little for you, and that you will hoiste saile and begon, I beseech You take this anchor with You, and I praye to Him that made both tyme and place, that in all places wherever You shall arrive, You may anchor as safely as You doe and ever shall doe, in the harts of my Owners."\*

The Lord Keeper had now the merit of introducing a practical mitigation of the extreme severity of the penal code. Robbery and theft where clergy could not be effectually prayed, as in the case of illiterate persons and of the female sex, were actually capital crimes, and after conviction the law was invariably allowed to take its course, notwithstanding any circumstances of mitigation. The consequence was, that in the reign of Henry VIII. there were 72,000 executions ; and notwithstanding the improvement in police and manners, in the end of the reign of Elizabeth, forty felons a year were hanged in the single county of Somerset. A commission was now issued, with the Lord Keeper at the head of it, authorising the Commissioners to reprove all such persons convicted of felony as they should think convenient, and to send them to serve for a certain time in the Queen's galleys as a commutation of their sentence. Transportation to the colonies was the improvement of a succeeding reign.

Another commission was issued which had the aspect of great severity. By this the Lord Keeper, and others, were required to summon before them all Jesuits and Seminary Priests, whether they were in prison or at large, and, without observing any of the usual forms of trial, to send them into banishment, under such conditions and limitations as might be thought convenient.† The object, however, was to draw the execution of the laws against the Catholic religion, from the ordinary tribunals, where they were enforced with relentless severity, — and these novel proceedings, though they wore the semblance of hostility, were hailed by many as a new era of toleration. The prospect of a popish successor, and the dread of the introduction of the Inquisition by Spanish subjugation, had reconciled the nation to measures of persecution of which they were beginning to be ashamed, — since the succession of the Protestant James was considered to be certain, and Spain, effectually humbled, had been compelled to sue for peace.

The Catholics prepared an address of thanks to the Queen, who had been driven to persecute them from policy rather than any violent horror of their faith — to which she had once conformed, and

\* Talbot Papers, vol. iv. 48. In a petition to the Crown for a grant of lands in the next reign, he estimated the expence to which he was put by this visit at 2000L.

† Rym. F. xiv. 473. 476. 489.

which she still greatly preferred to puritanism ;—but before it could be presented she was beyond the reach of human censure or praise.

During her last illness, the Lord Keeper, with the Lord Admiral and Secretary Cecil, remained at Richmond to watch the hour of her dissolution, while the other Councillors were stationed at Whitehall to preserve the public tranquillity, and to prepare measures for the peaceful accession of the new Sovereign. When she had lain ten days and nights upon the carpet, leaning on cushions, and her end was visibly approaching, the Lord Keeper, accompanied by the Lord Admiral and the Secretary of State, presented himself before her, concluding that she had no longer any motive for reserve upon the subject which she had made so mysterious during the whole course of her reign, and that her recognition of the true heir to the throne would strengthen his title with the multitude. Kneeling down, he said “they had come to know her will with regard to her successor.” She answered with a faint voice that, “as she had held a regal sceptre, she desired no other than a royal successor.” Cecil requesting that she would graciously condescend to explain herself more particularly, she subjoined, “that she would have a King to succeed her, and who should that be but her nearest kinsman, the King of Scots ?”\* They then withdrew, leaving the Archbishop of Canterbury with her to administer to her the consolations of religion. She ex-  
[A. D. 1603.] pired at three in the morning of the 24th of March, and by six the Lord Keeper joined the other ministers in London, and convened in the order for the proclamation of King James.

It will now be proper to take a brief general retrospect of the proceedings in Chancery during this reign. The equitable jurisdiction of the Court was greatly and beneficially extended, and by the appointment of men to preside in it who had been regularly bred to the profession of the law, it acquired the confidence and good will of the public. We no more have bills in the House of Commons for restraining it, and the attempts to prevent injunctions against fraudulent judgments in the Courts of common law originated from the jealousy of the common-law Judges, and their regard for their own power and profit. The statute 27 Eliz. c. 1., forbidding an application to other jurisdictions to impeach the execution of judgments in the King’s Courts, which was unfairly resorted to in this dispute, had been passed merely with a view to prevent appeals to Rome. In the 31 Elizabeth there was an indictment on this statute against a barrister for signing a bill filed in the Court of Chancery, praying an injunction against

\* A somewhat different account of this conference is given by a Maid of Honour who was present ; but, even according to her, the designation of James must be considered genuine, and not the invention of the ministers ; for if, on the mention of the name of Lord Beauchamp, the representative of the house of Suffolk, claiming, under the will of Henry VIII., she exclaims, “I will have no rascal’s son in my seat,” this was a clear expression of preference for the Scottish line. — Lady Southwell’s MS. She is partly corroborated by Camden, who thus translates the expression “*Nolim vilis mihi succedat.*” — Cam. Eliz. vol. ii. 285.

execution on a common-law judgment\*; but it was not brought to trial, and a truce was established, which was observed till the famous battle between Lord Coke and Lord Ellesmere.

The process of the Court to enforce appearance, and the performance of decrees, was greatly strengthened and improved by the introduction of the commission of rebellion, and of sequestrations,—whereby, substantially, property and person were rendered subject to equitable as well as legal execution.†

Full power was now assumed of granting costs in all cases,—which gradually superseded the practice introduced by 17 Richard II. c. 6. and 15 Henry VI. c. 4., of requiring, before issuing the subpoena, security to pay damages to the plaintiff, if the suggestions of the bill should turn out to be false, and the scruple was at last got over of allowing costs to the defendant on a demurrer to the bill for want of equity, although the suggestions contained in it were thereby admitted to be true.

The statute 5 Eliz. c. 18., respecting the office of Lord Keeper, prevented the recurrence to the ancient practice of having the aid of a deputy, under the name of Keeper of the Seal or Vice-chancellor; but the Master of the Rolls, from being the first clerk in the Chancery, was now described in books of authority as “Assistant to the Chancellor in matters of common law, with authority, in his absence, to hear causes and make orders.”‡ The practice was likewise established, which continued down to the time of Lord Thurlow, of the Chancellor deputing a puisne Judge to sit for him in case of sickness or political avocations. Common-law Judges were likewise called in as assessors in cases of difficulty. Questions of law arising incidentally were sent to be determined by a Court of common law, and if the certificate returned was not satisfactory to the Chancellor, he sent the question for the consideration of all the twelve Judges in the Exchequer Chamber.§

The Clerks, or Masters in Chancery, being freed from all trouble in superintending the issuing of writs, had abundant leisure, and were of great service in working out the details of decretal orders. But the complaint already began, that the Equity Judge, to save himself trouble, and to acquire a character for despatch which he did not merit, instead of patiently examining the facts and the equity of the case, as he might and ought to have done himself, hastily referred every thing to a Master, who was sometimes found listless or incompetent; and if (as it might happen) he possessed more knowledge as well as industry than his superior, still the suitor was vexed with undue delay and expense.||

\* Crompton on Courts, 57, 58.

† Sequestration was long resisted by the common-law Judges, who said, if a sequestrator were killed in an attempt to enter a house, instead of murder, it would be justifiable homicide. *se defendendo*. — See 5 Rene, H. of L. 160.

‡ Crompton, tit. “Chancery.”

§ Cary, 46.

|| In a MS. treatise on the Court of Chancery, written by the famous lawyer and VOL. II.—13

Bills of discovery and bills to perpetuate testimony became common. The old practice of requiring sureties of the peace in Chancery was still preserved; and we find one instance of a criminal jurisdiction being directly assumed upon a bill filed to punish a party for corrupt perjury, where there was not sufficient evidence to convict him at common law. He demurred, but was compelled to answer.\* The practice of granting protections, on the ground that the party was in the service of the crown, still continued.<sup>f</sup>

There being a great clamour in the time of Lord Keeper Puckering against excessive fees, he undertook to reform them with the assistance of Egerton, then Master of the Rolls; and on his sudden decease, Egerton, become Lord Keeper, went on with the inquiry, and corrected some abuses; but he was effectually thwarted by a combination of the Masters<sup>f</sup>, and when he was extending his reform to the Star Chamber, he received a remonstrance from Francis Bacon, who had a grant in reversion of the registrarship of that Court.<sup>§</sup>

Although there was nothing approaching to an exclusive bar in Chancery, there were particular barristers who acquired reputation by their cunning in drawing bills. One of these being found *too subtle*, an order was made by Lord Keeper Egerton, that no bills signed by him should be put upon the file.<sup>||</sup> Sometimes the whole bar refused to be employed against a great man; whereupon the Court assigned counsel to the other side, and compelled them to act.<sup>¶</sup>

Towards the end of this reign the business of the Court of Chancery was increased by a decision of the Court of Queen's Bench, which virtually abolished the Court of Requests. This was an Inferior Court

antiquary, Sir Robert Cotton, which I have perused by the kindness of my friend, Mr. C. P. Cooper, to whom, with many other valuable documents of the same description, it now belongs. I find the following passage, showing the recent origin of the practice of references to the Master.

"Forasmuch as the Masters of the Chancery at this day are grave and wise men, though many of them of another profession, and are not employed in framing of writs as at the first, yet they do sit upon the bench with the Chancellor; and he taking advantages of their opportunities and leisure (many times of late), refers matters which have depended in that Court, and are ready for hearing, unto their examinations, which, upon their certificate are decreed accordingly. But it is a true saying, that *new meats and old laws are best for use*. And I know not how, but the people do much complain of the new employment of them." He then proceeds invidiously to praise the publicity, regularity, and despatch, which characterise the proceedings in the Courts of common-law.

\* *Woodcock v. Woodcock*, 19 Eliz. — Cary, 90.

† *Reynzt v. Pelserbocio*. Lib. Reg. B. 4 & 5 Eliz. f. 124.

‡ See a petition against altering fees signed by nine Masters. — *Egerton Papers*, 214.

§ *Ib.* 272. 426. 427.

¶ *Cary*, 38.

¶ "27 April, 1562. *Brande v. Hyldrache*. Forasmuch as it is informed that because the matter in question toucheth Mr. Wray, of Lincoln's Inn, the plaintiff cannot get any to be of counsel with him, therefore Mr. Bell and Mr. Manwood are appointed by this Court to be of counsel with the said plaintiff. Lib. Reg. 3 & 4 Eliz. f. 302.

of Equity, which had taken its origin in the reign of Edward III. or Richard II., and was held before the Lord Privy Seal for the suits of poor men, or of the King's servants ordinarily attendant on his person. The Lord Privy Seal sitting there was assisted by the Masters of the Requests, who acted like Masters in Chancery,— and it had attracted much practice, when the Judges decided that it had no contentious jurisdiction.\* An order was afterwards made, allowing plaintiffs and defendants to sue in the Court of Chancery *in forma pauperis*.

By statute 43 Eliz. c. 4. facilities were given to the Court in investigating abuses in charities. The most important cases arose out of trusts and executory contracts respecting land. However, looking to the Chancery cases in print down to this time, it is wonderful how few and trifling and jejune they appear, when we consider that Plowden's Commentaries, Dyer's Reports, and Sir Edward Coke's Reports were already published, containing masterly judicial reasoning, and satisfactorily settling the most important questions which have ever arisen in the history of the common law of England.

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## CHAPTER XLIX.

### CONTINUATION OF LIFE OF LORD ELLESMORE FROM THE ACCESSION OF JAMES I.

EGERTON having joined in proclaiming King James, waited anxiously to see whether he was to be continued in the office by the new Sovereign. Elizabeth died on Thursday morning, [MARCH 24, 1603.] and, by what then seemed the miraculously swift journey of Sir Robert Carey, the news was brought to Holyrood House on the Saturday night; but James waited for the arrival of the messengers despatched by the Council before he made it public, or would begin to exercise the authority of King of England.

He soon declared his intention to continue in office the wise councillors of his predecessor; and by a warrant under his sign manual, dated the 5th of April, he directed that Elizabeth's Great Seal should be used as the Great Seal of England. [A. D. 1603.] land, and that it should remain in the custody of the former Lord Keeper.†

Egerton's joy was a little damped by hearing at the same time that he had been represented to the King by some enemy as "haughty,

\* 41 Eliz. Palgr. 79. 99. 3 Bl. Com. 5. It was finally abolished by 16 Car. 1. c. 10. The old "Court of Requests," which Hume refers to as a place of exercise while debates are going on in parliament, afterwards became the chamber of the Peers, and is now that of the Commons.

† Cl. R. 1 Jac. 1.

insolent, and proud;" and he immediately sent off his son with a letter to Sir T. Chaloner, who was acting under Cecil, and had gained the King's confidence, to justify himself. He there says — "Yf I have bene taxed of hautenes, insolencye, or pryde in my place (as I partly hear relations), I hope it is by theym that have not learned to speake well; and against this poysen I have two precious antidotes: 1. The religious wyssdome, royll justice, and princelye virtues of the King my soveraigne, which wyll soon disperse such foggye mystes. 2. The innocencye and cleerness of myne owne conscience, which is more than *mille testes*.

"I must confesse that in the place of justice which I have helde I was never so servile as to regarde parasites, calumniators, and syco-phanteres, but always contemned them, and therefore have often fealte the malice of theyr thoughts, and the venym of their tonges. I have learned no waye but the kinge's highe waye, and travelling in that, the better to guyde me, I have fastened myne eyes on this marke, *Judicem nec de obtainendo jure orari oportet, nec de infuria exorari*. Yf this have offended any I will never excuse yt; for I take yt to be incident to the place by severe examynyng of manie man's actions to offende many, and so to be hatfull to many, but those alwayes of the worst sorte, agaynst whom I wyll say no more, but, with Ecclesiasticus, *Beatus qui tutus est a lingua nequam.*"

He likewise wrote a letter to Lord Henry Howard, to be laid before the King, in which he makes an effort of flattery. "I have readde of *Halcyonis dies*, and *Latus Introitus*, and *Sol occubuit, nox nulla secuta*; we see and feele the effectes of that which they fayned and imagined. Wee had heavynes in the night, but joy in the mornynge. Yt is the great work of God: to hym onlye is due the glorye and prayse for it; and we are all bounden to yelde to hym our contynuall prayers, prayse, and thankes."\*

These letters being received when the King had reached York, on his way to the south, Sir Thomas Chaloner wrote him back, "As for the objection of haughtines, which, by mistakinge of the relator hath been imputed unto your Lp., I must cleare the Kinge's Majesty of any such suspition in your honour. For the woords hee used weare only bare questions, as being rather desirous to bee informed of the quality and affections of his subjects and principal counsaylores, then any note or prejudicte opinion against your Lp., or any others." But he was much relieved by Lord Henry Howard. "Your Lo. letter was so judiciously and sweetely written, as although on two sundrie tymes besor, in private discourse, I had performed the parte of an honest man, yet I could not forbear to present it to the sacred hand of his Majesty, who not only redde it over twice with exceeding delight, witnessed by his own mouth to all in his chambers, but besid, commanded me to give you verie greate thankes for the strong conceit you holde of him, and to let you knowe that he did hope that longer ac-

\* Eg. Pap. 361.

quaintance would not make you like him worse, for he was pleased with persons of your parts and quality.”\*

Thus reassured, he calmly expected James's approach ; and on the 3d of May he met him at Broxbourne, in Hertfordshire. Having then surrendered the Great Seal into his Majesty's hands, it was forthwith restored to him, still with the rank of Lord Keeper. But, on the 19th of July, at Hampton Court, the old Great Seal being broken, a new one, with the King's name and style engraved upon it, was delivered to him as Lord Chancellor of England ;† and, at the same time, the King put into his hand a warrant for creating him a Peer, by the title of Baron Ellesmere, with many compliments to his merits and his services. In a few days after he was duly installed in his new dignities ; and he officiated at the coronation of the King and Queen in Westminster Abbey.

He now gave up the office of Master of the Rolls, which he had held nine years since his appointment to it, and seven years while Keeper of the Great Seal.‡ Having, during this period, done nearly all the judicial business of the Court of Chancery, it was thought that the office of Master of the Rolls might be treated as a sinecure ; and, to the great scandal of Westminster Hall, it was conferred on an alien, who must have been utterly unacquainted with its duties, and incapable of learning them,—Edward Bruce, Lord Kinlosse, one of James's needy Scotch favourites, who had accompanied him to England, and most unconstitutionally had been sworn of the English Privy Council. This and similar acts much checked the popularity of the new Sovereign, and naturally excited great jealousy of his countrymen ;—whereby all his attempts to bring about an incorporating union between the two countries were defeated.§

\* Eg. Pap. 365.

† Cl. R. 1 James 1. Two years after, this Great Seal was altered under a warrant to the Lord Chancellor, beginning thus : “ Forasmuch as in our Great Seal lately made for our realm of England, the canape over the picture of our face is so low imbossed, that thereby the same Seal in that place thereof doth easily bruise and take disgrace,” &c. — Eg. Pap. 402.

‡ Under the power given to the Masters of the Rolls by the grant of the office to appoint a deputy, he did in 1597 appoint Mr. Lambard, but the deputation is expressly confined to the custody of the Rolls House, and the safe keeping and ordering of the records. See Discourse on Judicial Authority of M. R., p. 34, where the author in combating the arguments against the ancient judicial authority of this officer arising from his power to make a deputy, shows that this applies only to his administrative duties.

§ The Lord Chancellor, in his judgment in Calvin's case, tried, though very lamely, to apologise for such appointments. In answer to the argument that if the Scottish Postnati were acknowledged for natural-born subjects, they would overrun England, he says, “ Nay, if you look upon the Antenati, you shall find no such confluence hither, but some few (and very few in respect of that great and populous kingdom) that have done longe and worthie service to his Majestie, have and still doe attend him, which I trust no man mislikes ; for there can be none so simple or childish (if they have but common sense) as to think that his Majestie should have come hither alone amongst us, and have left behind him in Scotland, and as it were caste off, all his ould and worthie servants.” — 2 St. Tr. 694.

His Lordship, the Master of the Rolls, had the merit of not interfering farther than taking an account of the fees and emoluments of his office ; and the Lord Chancellor was still the sole Judge of the Court, continuing to give the highest satisfaction to the profession and to the public.\*

In the end of this year, before any parliament had met, he acted as

\* In the Egerton MSS. there is a curious account, in the handwriting of the Lord Chancellor, of the presentation of the Lord Mayor of London in the first year of King James, for the royal approbation. First come the heads of the Recorder's address, which he seems to have sent beforehand to the Chancellor :

“ Reception of Lord Mayor.”

After the humbling of our selves unto the King is noted —

“ *The Person.* What glory we take in yt : to count the now Lord Maior the King's owne Maior, because he was the first his Mat<sup>y</sup> made, and therefor wee present him *tangam simbolum* of like succedinge happiness to who shall follow him in London, government under his Mat<sup>y</sup>.

“ *The Place.* And as an augur of more than ordinary felicity to follow, though the present dayes were heavy, it is noted, where others were wont *in fore* he *in Capitolie* : at the Tower of London tooke his othe of office.

“ *The Tyme.* When affliction had taken hold of us : at this tyme it was his lott to take the sword, yet within a few weeks after it pleased God we were recovered : after a few moneths we had the honor of his Mat<sup>y</sup> triumphall entry, and ever sence have enjoyed happiness and helth. The tearmes and parliament kept with us, and contrary to what was feared. Theyre readynges hath made us freer than at theyr commynge. Concluded that *A domino factum est istud.*

“ *Of London,* this on thinge observed, that amyd the variable fortune of all places in all tymes, even from the cominge of the Romans untill now, still London hath flourished, emynt amonst all cytyes, *Quantum inter viburna cupresrus.* The reason [not legible] her fydelity and that she alwayes went with right. For witness, instanced that ladyes ere our Lord King James his day, when in company of so many councelors and nobles, auspicioys before all other cytyes wee did him right. Concluded with this, —

“ We sayde it then, wee vow it still, to his Mat<sup>y</sup> and his postertyt, to be the truest, surest, and loyaest that ever cyty or was or shalbe to a kinge,”

[At the back Lord Ellesmere has made the following memoranda of topics he should advert to in his reply] : —

- “ Jesuites and Seminaryes.
- “ Conventicles and Sectaries.
- “ Novellistes.
- “ New Donatistes.
- “ Factions, Seditiones.
- “ Machiavellian Atheistes, not secrett but publike.
- “ Delite and desire of alteration and ruyne of all states.
- “ Contemners of Lawes,
- “ Discourisers and Censurers of Princes.
- “ Syckenesse.
- “ Noysances.
- “ Vitaylles.
- “ Buylders.
- “ Proclamations.
- “ Rogues and Vacaboundes.”

a Peer, being appointed Lord High Steward, to preside at the trial of Lord Cobham and Lord Grey de Wilton, implicated in the conspiracy along with Sir Walter Raleigh, to place [A. D. 1603.] upon the throne the Lady Arabella Stuart, or the Infanta of Spain. He had the rare felicity of escaping any reproach in obtaining the conviction of state criminals, as there was ample legitimate evidence against both the prisoners, in their voluntary confession, of plotting with the Flemish ambassador for an invasion to change the order of succession to the Crown, although the ultimate objects of the plot have ever remained a mystery.\* James boasted, as a proof of his *kingcraft*, that he contrived that they should lay their heads on the block before he pardoned them; — but that their lives were spared we may fairly ascribe to the mild counsels of the Chancellor.

The parliament, which had been long deferred on account of the plague, was at last summoned. In the writs, [MARCH 19, 1603.] which were very carefully prepared by the Lord Chancellor, the Sheriffs were charged not to direct any precept for electing any burgesses to any ancient borough-town within their counties “beyng soe utterly ruyned and decayed that there are not sufficient resyantes to make such choice, and of whom lawfull election may be made.” Nevertheless, representatives were returned for Old Sarum, Gatton, and all the villages to which, for the sake of Court influence in the House of Commons, the elective franchise had been granted by the Tudors, and there was no real intention of bringing about a parliamentary reform by the prerogative of the Crown.†

On the first day of the session, the King going to Westminster in a chariot of state, the Lord Chancellor followed on horseback, in his robes, being placed on the left [MARCH 19, 1604.] hand of Prince Henry, who had the Archbishop of Canterbury on his right, the other Lords, spiritual and temporal, following in due order.

The King, on this occasion, introduced the present fashion of the Sovereign personally declaring the causes of the summoning of parliament, but he still adhered to the ancient custom of doing so before the choice of a Speaker. James's speech was exceedingly long and learned, and he would have been highly incensed if any one had treated it as the speech of the minister. When he had concluded, the Lord

\* Chief Justice Popham and the other Judges who tried and convicted Raleigh, were by no means so fortunate; for there was not a particle of evidence against him, except a written declaration of Lord Cobham, which he afterwards retracted; but the answer they gave to the request that he should be called as a witness and examined in open court, was that this was by no means to be permitted in the case of an accomplice. — 2 St. Tr. 1.

† Eg. Pap. 384. 387.

‡ Although the scandal of small constituencies had begun thus early, it is a well-ascertained fact that the abuse was in first giving the power of sending representatives to what were called the “rotten boroughs,” — as almost all of them were more populous in 1832 than they had been at any former era.

Chancellor desired the Commons to withdraw and choose a Speaker ; and on a subsequent day, the King being present, he announced the royal assent to the choice they had made.\*

The first measure of the session was a bill brought in by the Lord Chancellor, entitled "A most joyful and just Recognition of the immediate, lawful, and undoubted Succession, Descent, and Right of the Crown," which was forthwith unanimously passed by both Houses.

But he was soon involved in a very unpleasant dispute with the House of Commons, in which he was happily defeated. Sir Francis Goodwin had been chosen member for the country of Bucks, and his return, as usual, had been made into Chancery. Before parliament met, the Chancellor, assuming jurisdiction over the return, pronounced him ineligible, there being a judgment of outlawry against him, vacated his seat, and issued a writ for a new election. Sir John Fortescue was elected in his place, and claimed the seat ; but the House reversed the sentence of the Chancellor, and declared Sir Francis entitled to sit. The King took part with the Chancellor, saying, that all the privileges of the Commons were derived from his royal grant, and the Judges, being consulted, gave the same opinion.

The Commons remained firm, and would not even agree to a conference on the subject with the Lords. "A Chancellor," exclaimed a popular orator, "may by this course call a parliament of what persons he pleases. Any suggestion, by any person, may be the cause of sending a new writ. It is come to this plain question — Whether the Chancellor or parliament ought to have authority ?"†

A compromise was at last agreed to, whereby Goodwin and Fortescue were both set aside, and a new writ issued, under the Speaker's warrant, and the House has ever since enjoyed the right to judge of the elections and qualifications of its members.

The Lord Chancellor next brought forward the important measure of the union with Scotland, which the King had strongly recommended in his speech from the throne. It was very coldly received, from the apprehension that if carried, England would be overrun with Scotsmen. A bill was however passed for the appointment of English commissioners, to meet commissioners appointed by the parliament of Scotland to treat upon the subject. The Lord Chancellor was the first commissioner ; and conducting the negotiation on the part of England, earnestly endeavoured to comply with the wishes of his master, but he soon found the project impracticable ; "for," says an English writer, "the Scotch, though we have taken their King, absolutely refused to be governed by any of our laws."‡ However, not only were the arms of both kingdoms quartered on all standards, military and civil, but, contrary to the opinion of the Judges, who thought

\* 1 Parl. Hist. 967.

† Journ. March 30, 1604. 1 Parl. Hist. 1014.

‡ 1 Parl. Hist. 1023.

that the name of England could not be sunk or altered in the royal style without the authority of parliament, James, by the advice of the Chancellor and his Council, was now proclaimed afresh as King of Great Britain, France, and Ireland, "that the names of England and Scotland might from henceforth be extinct."\*

On the 5th of November, 1605, was discovered the famous gunpowder plot. A few days after, the King and the Chancellor gave a full narration to the two Houses of all the particulars respecting it; and there was ordered the form of thanksgiving "for our deliverance from the great and apparent danger which threatened us in this place," still repeated in the daily prayers of the House of Lords. The Chancellor, assuming a power not conceded to his successors, who are not allowed to have more authority than any other Peer, gave direction to the clerk of parliament to take special notice of the names of such Lords as should fail in their appearance next session, having no licence from his Majesty for their absence; and some of the absentees were imprisoned on suspicion that they were implicated in the plot. No other subject could command attention for the rest of the session.

The following year, the Chancellor had again upon his hands the difficult measure of the union with Scotland. He zealously supported it in the Lords; and that House was [A. D. 1606.] inclined to yield to the King's wishes, but the Commons were refractory, several members throwing out the most biting sarcasms against his countrymen and himself.†

They agreed that all hostile laws between the two kingdoms should be repealed, and that the Border courts and customs should be abolished; but they would not even go so far as that the subjects of each kingdom should be naturalised in the other. To carry this point, the Chancellor called in the Judges, and obtained an opinion from eleven out of twelve of them, "that such of the Scotch as have been, or shall be born in Scotland since his Majesty's coming to the Crown, are not

\* 1 Parl. Hist. 1052.

† *Mr. Fuller*: "Suppose one man is owner of two pastures with one hedge to divide them, — the one pasture bare, the other fertile and good. A wise owner will not quite pull down the hedge, but make gates to let the cattle in and out at pleasure; otherwise they will rush in in multitudes, and much against their will return." "There are tenants of two manors whereof the one hath woods, fisheries, liberties: the other, a bare common without profit, only a little turf, or the like. The owner maketh a grant that the tenants of this shall be participants of the profits of the former. This beareth some show of equity, but is plain wrong, and the grant void." — 1 Parl. Hist. 1082.

*Sir Christopher Pigott*: "I will speak my conscience without flattery of any creature whatever. The Scots have not suffered above two Kings to die in their beds these 200 years. His Majesty hath said that through affection for the English he dwells in England; but I wish he would show his affection for the Scots by going to reside among them, for *procul a numine procul a fulmine*." — 1 Parl. Hist. 1097. *Boderia*, vol. ii. 223. But for this speech he was afterwards, on the King's complaint, sent to the Tower, the Commons excusing themselves for not sooner noticing it upon the maxim, "Leves loquuntur curse, ingentes stupent."

aliens, but are inheritable by the law, as it now stands, as native English."\* But the Commons denied this opinion to be law, and refused to abide by it.

Thereupon, to have a regular judicial decision, the Chancellor directed a friendly suit to be instituted in his own Court; and hence arose *CALVIN'S CASE*, or the famous "*Case of the Postnati.*" A piece of land, in the county of Middlesex, was purchased in the name of Robert Calvin, a minor, born in Scotland since the accession of James to the Crown of England, and a bill in Chancery was filed by his guardian, complaining that the deeds were improperly detained from him by one who held them as his trustee. The defendant pleaded that the plaintiff was an alien,—showing his birth in Scotland since the King's accession. There was a demurrer to the plea. At the same time, an action claiming the land was brought in the Court of King's Bench, to which a similar plea was pleaded. Both suits, on account of the importance and alleged difficulty of the question which they raised, were adjourned into the Exchequer Chamber before the Lord Chancellor and all the Judges. Two of them, Walmesley and Foster, Justices of the Common Pleas, had the firmness, at the risk of being dismissed from their offices, to hold that "if a King of England should hold foreign dominions not in right of the crown of England, those foreign dominions must ever form separate states, the subjects of each standing in the same relation to each other as if they had still separate sovereigns, without acquiring new rights, and without the rights they before enjoyed being prejudiced." Such, I apprehend, would be the opinion of all constitutional lawyers at the present day. The arguments on the other side rest chiefly on the notion of England being an absolute monarchy, so that when it was joined under one Prince to another such kingdom, the inhabitants of both owed him a common allegiance, and, for the purposes of empire, formed one state, though the ancient municipal laws of each might remain. No attempt was made to show that Scotland was under feudal subjection to England, and the reasoning employed would have applied equally to the inhabitants of all the countries under the dominion of Philip II. if he had had a son by Queen Mary.

The Lord Chancellor delivered a very long and elaborate judgment, in which, it must be confessed, he shows much more anxiety to please the King than to cultivate his own reputation. As a fair specimen, I will transcribe his answer to the objection that this was a question which ought to be settled in parliament, as there was no known law to solve it. "I would aske of the novelists what they would have done in *Sibbel Belknappe's* case if they had lived in Henry the Fourth's time? Sir Robert Belknappe, that revered and learned Judge, was banished out of the realm, *relegatus in Vasconiam*. The lady, his wife, continued in England; she was wronged; she brought a writ in her own name alone, not naming her husband. Exception

was taken against it, because her husband was living, and it was adjudged good, and she recovered ; and the Judge Markham said,

‘Ecce modo mirum quod fœmina fert breve regis  
Non nominando virum conjunctum robore legis.’

“Here was a rare and a new case ; yet it was not deferred until a parliament ; it was adjudged ; and her wrong was righted by the common law of England ; and that *ex arbitrio judicum et ex responsis prudentum*, and yet it was accounted *mirum* with an *ecce* ! “Now, to apply this to R. Calvine’s case. His case is rare and new : so was that. There is no direct law for him in precise and expresse tearmes ; there was never judgement before touching any born in Scotland since King James beganne his happy raigne in England ; hee is the first that is brought in question : so there was no direct law for Sibbel Belknappe to sue in her owne name without her husband, who was then living ; nay, rather, there was direct law against it. Yet by the lawe of England, shee had judgement to recover with an *ecce modo mirum* : so by the lawe of England judgement ought to be given for Robert Calvine, but not an *ecce modo mirum*, but upon strong arguments deduced *à similibus*, and *ex dictamine rationis*.”

But the Chancellor, no doubt, chiefly piqued himself upon the passage where he combats the apprehension of a Scottish invasion. “Another argument and reason against the Postnati hath been lately made out of diffidence and mistrust that they will come into England *sans* number, and so as it were to surcharge our common ; and that this may be in *secula seculorum*. I know not well what this means. The nation is ancient, noble, and famous ; they have many honourable and worthie noblemen and gentlemen, and many wise and worthie men of all degrees and qualitie : they have lands and fair possessions in Scotland. Is it therefore to be supposed, or can it in reason be imagined, that such multitude *sans* number will leave their native soile, and all transport themselves hither ? Hath the Irish done so, or those of Wales, or of the Isles of Man, Guernsey, and Jersey ? Whie should we then suspect it now more for Scotland ?”

The dissentient Judges were treated with great scorn, the Lord Chancellor saying that “they did not amount to the plural number in Greek ;”—and what the legislature had refused was obtained by this judge-made law\* ;—but the project of a legislative union was so much

\* A question arose while I was Attorney General, whether a person born in Hanover during the reign of George III. was to be considered an alien ? Happily no doubt can exist as to Hanoverian *Postnati* since the accession of Queen Victoria. See Moore’s Rep. 790. Lord Coke’s Rep. Part vii. 2 St. Tr. 559. The only colour of argument in favour of the *Postnati* was that persons born at Calais or Guernsey and Jersey, and even in Normandy and Aquitaine, were considered natural born subjects ; but all these places were, however inaccurately, soon considered as belonging to the Crown of England, and so loose were the notions on such subjects prevailing in early times, that Norman barons will be found, as such, sitting in the English parliament.

prejudiced by the partiality displayed for the Scots, that the King was obliged to drop it, and it was not revived till the reign of Queen Anne, the last of the Stuarts.

In 1612 Lord Ellesmere was employed in resisting the King to institute the new order of hereditary knighthood, whereby a sum of 200,000*l.* was raised, — two hundred Baronets being made at the price of 1000*l.* a piece.\*

The Chancellor was next occupied with a matter in which he had the old law on his side, but which involved him in much trouble, and gave rise to much petty vexation. The King, by the feudal constitutions, was entitled to an aid from his military tenants to knight his eldest son, to marry his eldest daughter, and to redeem his own person should he fall into captivity. This had not been put in force in England for many ages; but Prince Henry having reached his 15th year, and being about to be knighted, it was revived as an expedient to fill the Exchequer without calling a parliament. The mode of proceeding was so little known, that the Chancellor was obliged to have many consultations on the subject with the Judges and the officers of the Exchequer. At last, a writ of Privy Seal was directed to him, commanding him to issue commissions into all the counties of England for assessing the aid; and under these commissions, inquiries were made into the tenure of all lands, and their ancient and present value.† These led to a negotiation for giving up entirely "wardship" and the other burthensome incidents of tenure by "knights' service," which would have been most advantageous for all parties; but the Chancellor discouraged it, and this improvement was not accomplished till the reign of Charles II. Before any considerable sum had been collected on this occasion, Prince Henry died, to the unspeakable grief of the nation, for he had given more earnest of great qualities than any of his race; but the event was probably favourable to our liberties; for if he had survived, and shown the genius for war of which he had given manifestation, such battles as Edge Hill, Newbury and Naseby, would probably have had a different result, and the Long Parliament would have been the last that would ever have assembled in England.

The King did not venture to resort again to an aid from his military tenants, when he married his daughter Elizabeth to the Elector Palatine; but he was obliged to submit to the disagreeable [FEB. 1613.] necessity of calling a parliament, — a step never taken during the Stuart reigns, except for the purpose of obtaining money.‡

\* Egert. Pap. 449.

† Ibid. 435.

‡ In contemplation of the meeting of parliament, the Lord Chancellor wrote a paper respecting the various subjects to be discussed. I will give as a specimen what he proposes "to equal exportation and importation," and the friends of "Protection" must not be too severe upon his political economy.

"Another thinge of greatest importance ys the contynuall and excessive importation of foreyn superfluous and wayne wares and merchandizes, farre exceeding the exportation of the rych and royal commodities of this kyngedome, by which the realme ys dayle more and more impoverished and wasted, and yf it be not reme-

On the first day of the session, the King himself delivered a long oration ; and the Chancellor's functions, in declaring [APRIL 5, 1614.] the causes of the summons, were entirely superseded, he being merely allowed to go through the forms respecting the choice of a Speaker. The royal eloquence, however, produced very little impression on the Commons ; and, instead of voting a supply, they complained to the Lords of a speech which (as reported by common fame) had been made by the Bishop of Lincoln, reflecting upon them, and questioning their right to withhold a supply.\* Lord Ellesmere was the adviser of the Lords in this controversy with the other House, and certainly showed that he had very undefined notions on the subject of privilege. Having ascertained, by a question he put to the messengers of the Commons, that they merely made a verbal complaint against the Bishop of Lincoln without following it up with any written charge, instead of standing upon the freedom of debate claimed by each House, and the exclusive right of each House to judge of its own proceedings, he recommended a conciliatory answer to the Commons, "that although common fame was not a sufficient ground to proceed upon, nevertheless they would give to the Commons all good satisfaction in this business."

The Commons sent another verbal message, insisting that common fame was sufficient, and repeating the substance of the words which the Bishop was supposed to have spoken ; "desiring the Lords, if these words were not spoken so to signify it to the House, otherwise that the Lords would do as they had promised." "The Bishop made a solemn protestation, on his salvation, that he did not speak any thing with any evil intention to the House of Commons, which he did with all hearty duty and respect highly esteem ; expressing, with many tears, his sorrow that his words were so misconceived and strained further than he ever intended them." On the motion of the Chancellor, a message was sent to the Commons to inform them of this apology ; and that "if the Bishop's words had been spoken or meant to cast any aspersion on the Commons, their Lordships would forthwith have proceeded to the censuring and punishing thereof with all severity ; but that hereafter no member of their House ought to be

dyed in tyme, the state can not longer subyste. This requireth great consideration, care, and industrie of men skylfull in the trade of merchandize, but such as feare God and love the Kinge and common weale, and wylle not preferre theyre private gayne for the present before the Kinges welfare and the publicke state of the realme. Yf this pointe to equallinge the exportation and importation be not effectually and speedilye deale in, whatsoever else shall be attempted for abatinge our suppiye wyl be to little purpose, for this is a consumyng canker." — *Eger-ton MSS.*

\* This is the Bishop who, according to Waller's story, being asked by King James whether he could not take his subjects' money without all this formality of parliament, replied, "God forbid you should not, for you are the breath of our nostrils," which led to Bishop Andrew's witty answer when the same question was put to him, "Why then I think your Majesty may lawfully take my brother Neale's money, for he offers it."

called in question, when there is no other ground for it but public and common fame."\* Still the Commons were unpeased, and they would proceed with no other business till they had more satisfaction.

The Crown now interposed in a very irregular manner; and a commission was passed under the Great Seal (to be used as a threat), authorising the Lord Chancellor and others to dissolve the parliament. The Lord Chancellor then, according to the entry in the Journals, "in a very grave and worthy speech, gave the Lords great thanks for having so nobly borne with the many motions he had so unreasonably made unto them." He concluded, by moving that a message be sent to the Commons, to say "that forasmuch as they thought to have heard something from that House this morning, they had hitherto stayed the publishing of the commission, which had passed the Great Seal, to dissolve the parliament." An equivocal answer being received, they adjourned till the following day; and then, no concession being made, the Lord Chancellor directed the commission to be read, and in the King's name, dissolved the parliament. No other parliament met till 1620,—when a Lord Chancellor was impeached, and convicted of bribery and corruption.

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## CHAPTER L.

### CONCLUSION OF THE LIFE OF LORD ELLESMORE.

**LORD ELLESMORE**, for the rest of his time, had only to attend to his duties in the Court of Chancery, in the Privy Council, in the Star Chamber, and in the Court of the Lord High Steward.

He had obtained the assistance of an able Master of the Rolls, Sir Julius Cæsar, who had been regularly bred to the profession of the law,—and a commission had issued, in which several common-law Judges were included, to hear causes in his absence. From his age and infirmities, he could no longer master the whole business of the Court single-handed, as he had done in former times. He showed, however, that his mental vigour remained unbroken.

The youthful minion who was now grasping at all power and patronage, tried to get into his hands even the appointment of the officers of the Court of Chancery, but this attempt was manfully resisted by the Chancellor. The following is a copy of the letter which he wrote to the Earl of Somerset on that occasion:—

"My Lord,

"I woulde be gladd to gyve you a good accompt of the late projecte of Sir W. Uvedall's sute. I wysh well to the Gent. in

regarde of hym selfe, but specially for your recommendation, being desirous to accommodate any thinge you shall commende unto me. But the more I haue laboured to understand what is lykely to be the scope and ende of this projecte, the more I am perplexed. I doubt that, by the successe, he shall fynde yt more in shewe then substance. I perceyve yt maye concerne many, some in the very right of their places, as they pretende, namely, the Clerke & Comptroller of the Hanaper, but specially the Clerk who is Clericus & Custos Hanaperii, and so a receyvor & accomptant to his Mat<sup>r</sup> and conceyveth, as his Counsell advise hym, that yt wyll prejudice hym in his frehoulde, hayinge his office for terme of his lyfe by his Mat<sup>r</sup> letters patent. The Controller hath a kynde of relation to the same office, and can not well be severed the one from the other. The poore Sealer and Chaffewaxe, and ther dependantes, are afraied of they know not what, suspecting that this innovation, which they understande not, can not be for ther good, but lykely to ende to ther harme, whatsoever is pretended. And these poore men, whose labour and paynes are greatest, deserue moost to be pytyed & relieved, and so yt is lykely that some upon pretence of right, and some from necessitey, wyll move more discontentement & clamour then they can stoppe.

“ But levinge these to theym selues, I must lett your Lordship know playnelye that yt I be pressed to deliver myne opinion, I can not gyve any furtherance to the sute. For where the constitution & frame of Hanaper hath contynued setled as yt is, I know not how many hundred yeares, this newe projecte wyll make such a breach and rupture in yt as I can not foresee yt; and your Lp. in your wysedome can not but know that all innovations be dangerous, and yt was, upon great reason, observed and sayed longe agoe, that ipsa mutatio consuetudinis etiam que adjuvat utilitate novitate perturbat. Such perturbations, by a newe projecte, after so many hundred yeares quyette, I woulde be sory to see in this place in my tyme, which can not be, and I desire not to be, longe. So, recommending the further consideration thereof to your wysedom, I rest

“ Your Lps very lovinge frende,  
assured and redy at your command,  
“ T. ELLESMORE, C.”\*

In the case of the Countess of Shrewsbury, brought before the Privy Council, for being concerned in the marriage of the King's cousin-german, the Lady Arabella Stuart, without the King's consent, the Lord Chancellor laid it down for law, that this was a great misdemeanour, and that the defendant, though a Peeress, by refusing to answer on oath the questions put to her respecting it, ought to be fined 20,000*l.*† The right of the reigning Sovereign to regulate the marriages of all members of the royal family was then enforced by

the power of arbitrary fine and imprisonment; and when this power was gone, the right was found to be without any remedy till the passing of the royal marriage act, in the reign of George III.

As a specimen of the mode of proceeding in the Star Chamber while Lord Ellesmere presided there, I will give a short abstract of the famous "Case of Duels." Sir Francis Bacon, Attorney General, filed an information against William Priest for writing and sending a challenge, and against Richard Wright for carrying it, although it had been refused. The case was very clear, and not attended with any circumstances of aggravation; yet, to check the practice of duelling, which had then increased in a most alarming manner, the trial occupied a tedious length of time, and was conducted with great solemnity. After a most elaborate opening from Mr. Attorney, he called his proofs, and the defendants confessed their guilt. Still Lord Coke was called upon by the Chancellor to lay down the law, that "to send or carry a challenge is a misdemeanour, though there be no duel." Then the Lord Chancellor pronounced sentence, "that both defendants be committed to Fleet; Priest to pay a fine of 500*l.*, and Wright of 500 marks; that at the next Surrey assizes they should publicly, in the face of the Court, the Judges sitting, acknowledge their offence against God, the King, and the laws; that the sentence should be openly read and published before the Judges on all the circuits; and, lastly, that the Lord Chief Justice Coke should report the case for public instruction.\*

It was a sore disappointment to the Lord Chancellor that he was prevented by illness from being present in the Star Chamber at the hearing of the case of Oliver St. John, prosecuted by Mr. Attorney General Bacon in the Star Chamber, for denying the legality of "Benevolences." The hearing had been put off to accommodate him, and he had expressed a strong hope to be able to attend, "and it were to be his last work to conclude his services, and express his affection towards his Majesty." However, he took occasion to express his approbation of the sentence, "that the defendant should pay a fine of 5000*l.*, and be imprisoned during the King's pleasure."†

Though not chargeable with counselling acts of wanton cruelty, he always supported the King in all his pretensions to arbitrary power, never in a single instance checking the excesses of prerogative;—unlike his great contemporary, Lord Coke, who was redeemed from many professional and political sins, not only by acting the part of a patriot when turned out of office and persecuted by the existing administration, but who, even when Chief Justice holding at the pleasure of the Crown,—with the Great Seal within his reach, stepped forward on various occasions as the champion of the laws and constitution of his country.

The High Commission Court, established in the reign of Henry VIII. on the separation from Rome as a substitute for the papal jurisdiction,

\* See 2 St. Tr. 1034.

† Ib. 899.

had been made an instrument of more odious vexation than the Star Chamber itself. The Lord Chancellor stood up for its legality, and its power to fine and imprison ; but Coke refused to sit upon it, denying that it had any such authority, either by the common law or act of parliament, and the Chancellor was obliged to excuse his absence from its sittings.\*

So James arrogated to himself the power of issuing proclamations, not merely to enforce, but to alter the law — not limiting this prerogative to any particular subject, and merely taking this distinction between a proclamation and an act of parliament, — that the former is only in force during the life of the Sovereign who issues it, whereas the latter is of perpetual obligation. He had accordingly issued (amongst others) proclamations against erecting any new buildings in or about London, and prohibiting the making of starch from wheat. The legality of these coming in question, the Judges were summoned before the Council with a view to obtain an opinion that they were binding on all the King's subjects. Coke at first evaded the question, expressed doubts, and wished to have farther time to consider. The Lord Chancellor said, "that every precedent must have a first commencement, and that he would advise the Judges to maintain the power and prerogative of the King ; and in cases in which there is no authority and precedent, to leave it to the King to order it according to his wisdom and the good of his subjects, for otherwise the King would be no more than the Duke of Venice." Coke answered, "True it is that every precedent hath a commencement ; but where authority and precedent are wanting, there is need of great consideration before any thing of novelty is established, and to provide that this is not against the law of the land ; for the King cannot change any part of the common law, nor create any offence by his proclamation, which was not an offence before, without parliament ; but at this time I only desire to have a time for consideration and conference with my brothers, for *deliberandum est diu quod statuendum est semel.*" Being taunted with having himself decided cases in the Star Chamber upon the proclamation against building, he said, "*Melius est recurrere quam male currere* — it is better to recede than to persevere in evil. Indictments conclude *contra leges et statuta*, but I never heard an indictment conclude *contra regiam proclamationem.*"

Time was given, and an unfavourable answer returned, which saved us from the uncertainty which, to this day, prevails in France, even under the Orleans dynasty, as to what may be done by royal ordonnance, and what can be done only by an act of the legislature.†

Lord Coke acquired great popularity by these proofs of spirit and independence ; and the Government, not then thinking it prudent to cashier him, he fondly conceived the notion that, on account of his

\* 12 Rep. 87. In the next reign this Court became still more tyrannical when directed by Laud against the Puritans, but it was abolished by 16 Car. 1. c. 11.

† 12 Rep. 74.

reputation for learning and integrity, he never could be in jeopardy. The insolence of his nature in consequence broke out against the Chancellor, who had suffered some humiliation from such controversies, and who was now supposed to be dying. The Chief Justice deemed this a fit opportunity to revive the dispute between the Courts of common law and equity,—denying that the Chancellor had any right to interfere by injunction with an action in its progress,—and insisting that the suing out of a subpoena in Chancery, to examine the final judgment of a court of common law, was an offence which subjected all concerned to the penalties of a *premunire*. He now boldly pronounced judgment in a case in which the Chancellor had granted an injunction to stay proceedings\*; he bailed and afterwards discharged a person who had been committed by the Lord Chancellor for breach of an injunction against suing out execution on a judgment; and in another case†, he got Justice Dodderidge, a *puisne* Judge of the King's Bench, to express a strong opinion, along with him, that the interposition of equity in actions at law was illegal.

Still the Chancellor continued to exercise his jurisdiction as before; and in a case where a judgment had been fraudulently obtained in the Court of King's Bench, he pronounced a decree to set it aside, and granted a perpetual injunction against execution. The verdict had been gained in this action by decoying away the defendant's witness, who could have proved payment of the alleged debt, and making the Judge believe that he was dying. During the trial, this witness was carried to an adjoining tavern, and a pottle of sack was ordered for him. When he had put this to his mouth, the fabricator of the trick returned to Court, and arrived there at the moment when the witness was called. The Judge was asked to wait for a few minutes, but the cunning knave swore “that delay would be vain, for that he had just left the witness in such a state, that *if he were to continue in it a quarter of an hour longer*, he would be a dead man.” Coke (we must hope, unconscious of the deceit which had been practised,) sent for the attorney for the plaintiff at law, and recommend him to prefer an indictment for a *premunire* against the party who had filed the bill in Chancery, his counsel and solicitor. In another case of the same nature, he gave the like advice; with a recommendation that the Master in Chancery, who had been assessor to the Chancellor when the order was made, should be included in the indictment.

In charging the Grand Jury in Hilary term, 1616, Justice Crook, on the suggestion of the Chief Justice, for the first time that such a matter had been mentioned to any inquest, gave them in charge “to inquire of all such persons as questioned judgments at law, by bill or petition, in the Court of Chancery.” I now copy a paper, indorsed in the handwriting of Lord Ellesmere; “*Prooffes of the proceedings, the last daye of Hillary Terme:*”

\* *Heath v. Ridley.*

† *The King v. Dr. Gouge.*

† *Courtenay v. Glanvil.*

"Glenvill, informing the Lord Coke that the Jury wold not finde the bills of Premunire, the Lord Coke sent for the Jury, yet protested he knewe nothing of the matter.

"The Jury, for the waightnes of the case, desired further tyme and counsill, though at theire owne charge; but both denied, by the Lord Coke affirming that the case was plaine.

"The Lord Coke, perceiving the Jury were inclined not to find the bills, they alleadging that they were promised better evidence then the oath of the parties, and that they were not satisfied that the judgement was dulye gotten, being obtained out of Terme, he stood upp and said to them, 'Have you not seen copies of the proceedings in Chancery? Have not Allen and Glanvill made oath for the King that the same are true? Is not a party robbed a good witnes for the King against a theefe, and is there not a judgement in the case?'

"At the Jurors' second comeing to the Barre, the Lord Coke said unto them, that yf they wold not find the bills, he wolde comitt them, and said that he wold sitt by it untill the busines were done, and willed thefn to goe together againe. After which, a Tipstaff attending that Court came into the private room where the Jury were conferring touching those indictments, and told them the Lord Coke was angrye they staid soe long, and bade them feare nothing, the Lord Chancellor was dead.

"At the Jurors' third comeing, the Lord Coke caused them to be called by the poll, and perceiving that 17 of the 19 were agreed to return *Ignoramus*, he seemed to be much offended, and then said they had been instructed and tampered withall, and asked Glanvill and Allen to prepare themselves against the next Terme, when he wold have a more sufficient Jury, and evidence given openly at the Barr.

"Note, that upon the Lord Coke's threatening wordes one of the Jury formerly agreed with the rest fell from them, saying he found the Bills, Lord Coke said, 'I think theis Bills wilbe found anon.'

"Upon a motion made there that day between Goodwin and Goldsmith concerning a judgment in that Court, the Lord Coke said openly to the lawyers, 'Take it for a warning, whosoever shall putt his hand to a bill in any English Court after a judgement at lawe, wee will foreclose hym for ever speaking more in this Court. I give you a faire warning to preserve you from a greater mischief. Some must be made example, and on whome it lighteth it will fall heavy. Wee must looke about us, or the common law of England wilbe overthowne.' And said further, that the Judges shold have little to doe at the assizes by reason the light of lawe was lyke to be obscured, and therefore, since the said case then moved was after judgment, he willed the party to preferr an indictment of *præmunire*.

"Note, the Lord Coke said the Judges of that Court were the superintendents of the realme."\*

\* Unpublished MS. in possession of Lord Francis Egerton. In the margin there is a list of twelve witnesses by whom this statement is to be proved, with an

The Chancellor meanwhile was confined to his bed, and this proceeding of Coke was considered the more reprehensible as an attempt to crush a dying rival. But Sir Francis Bacon, the Attorney General, gave information of the collision to the King, "commanding the wit of a mean man, who said the other day, '*Well, the next term you shall have an old man come with a beesom of wormwood in his hand that will sweep away all this,*' for it was Mylord's fashion, especially towards the summer, to carry a posy of wormwood."

Accordingly the Chancellor, having unexpectedly recovered, prepared a case, which he laid before the King, concluding with the question, "Whether, upon an apparent matter of Equity which the Judges of the law by their place and oath cannot meddle with or relieve, if a judgment be once passed at common law, the subject shall perish, or that the Chancery shall relieve him? and, whether there be any statute of premunire, or other, to restrain this power in the Chancellor?"\* The King referred it to the Attorney and Solicitor General, the King's Serjeants, and the Attorney General of the Prince of Wales, who made a report to him, that the statutes of premunire did not apply to such a case, and that, according to reason and many precedents, the Chancellor had the jurisdiction which he had exercised, to examine the judgments of the Courts of common law, and to stay execution if he should find that they had been obtained by fraud for which the Courts of common law could not afford sufficient remedy.

James, however, in deciding for the Chancellor, thought fit to rest on the plenitude of his royal prerogative, assuming that "it appertained only to his princely office to judge over all Judges, and to discern and determine such differences as at any time might arise between his several Courts touching their jurisdictions, and the same to settle and determine as he in his princely wisdom should find to stand most with his honour."<sup>†</sup> To settle the question of jurisdiction in all time to come, the royal decree was ordered to be enrolled in the Court of Chancery. Coke made rather a humiliating submission, and during the short remainder of his judicial career offered no further resistance to injunctions; but, being convinced against his will, he retained his opinion, and in his "Third Institute," he stoutly denies the jurisdiction of the Chancellor on this subject, which he maintains is contrary to 27 Ed. 3.; and after citing the pretended authorities in his favour, he says, "The Privy Seal of 1616 to the contrary was obtained by the importunity of the then Lord Chancellor, being vehemently afraid; *sed judicandem est legibus*, and no precedent can prevail against an act of parliament."<sup>‡</sup>

Some thought that this would have been a good opportunity for

intimation that "theise things can be further proved by sundry other witnesses not yet examined, yf it be required."

\* 5 Bacon's Works, 416.

† 1 Chanc. Rep. Append. 26. Council Book, July 26, 1616. 3 Bl. Comm.

‡ 3 Inst. c. 54. p. 125. After Lord Coke's death the question of equitable jurisdiction was again mooted, and it was revived at intervals down to 1695, when an

getting rid of Coke as Chief Justice. But Bacon writes to the King: "My opinion is plainly that my Lord Coke at this time is not to be disgraced, both because he is so well habituate for that which remaineth of these capital causes\*, and also for that which I find in his breast, touching your finances and matters of repair of your estate. On the other side, this great and public affront, not only to the reverend and well-deserving person of your Chancellor, (and at a time when he was thought to lie on dying, which was barbarous,) but to your high Court of Chancery, which is the Court of your absolute power, may not, in my opinion, pass lightly, nor end only in some formal atonement; but use is to be made thereof for the settling of your authority and strengthening of your prerogative, according to the true rules of monarchy. If it be true, as is reported, that any of the puisne Judges did stir this business, or that they did openly revile and menace the jury for doing their conscience as they did, honestly and truly, I think that Judge is worthy to lose his place. And to be plain with your Majesty, I do not think there is any thing a greater *polychreston*, or *ad multa utile* to your affairs, than upon a just and fit occasion to make some example against the presumption of a Judge in causes that concern your Majesty, whereby the whole body of those magistrates may be contained the better in awe." He concludes, however, by giving the milder advice, which appears to have been followed, "that the Judges should answer it on their knees before your Majesty or your Council, and receive a sharp admonition."<sup>†</sup> The Attorney General was directed to prosecute in the Star Chamber the parties who had preferred the indictments; but the matter was allowed to drop without any farther judicial proceeding, the attention of the nation being now entirely absorbed in the prosecutions going forward for the murder of Sir Thomas Overbury.

The occurrences connected with this murder throw a deep stain on the reign of James; and Lord Ellesmere cannot be entirely cleared of the disgrace in which all concerned in them were involved. He was not answerable for the King's fondness for Car, the handsome unlettered youth, nor the favours bestowed upon this minion, nor the young Countess of Essex's preference of him to her wedded husband; but he was answerable, as Head of the Law, for countenancing the infamous process instituted to dissolve her marriage, and for putting the Great Seal to a commission for that purpose. Though Archbishop Abbot, to his honour, refused to concur in the divorce, which was pronounced on the fantastical plea of "*maleficium versus hanc*," produced by witchcraft, which James himself wrote a treatise to

elaborate treatise in support of Lord Coke's doctrine was published by Lord Chief Baron Atkyns, but the jurisdiction of equity as well after as before judgment, has been ever since exercised without controversy or interruption. See all the authorities collected by Mr. Hargrave in a note to the Life of Lord Ellesmere, in the Biogr. Brit., vol. v. p. 574. 1 Hall. Const. Hist. 469. 2 Swanst. 24. n.

\* The prosecutions arising out of the murder of Sir Thomas Overbury.

† Bacon's Works, vol. iv. 606.

support,—the Chancellor, several Bishops, and the most eminent statesmen, concurred in the judgment: and Sir Thomas Overbury became the victim of the advice he honestly gave to his friend, not to unite himself in marriage with an abandoned woman.

The Earl and Countess of Somerset being now detected as the instigators of the murder, they were lodged in the Tower. It was indispensably necessary that they should be brought to trial, and the greatest consternation prevailed at Whitehall. Little sympathy was felt for the favourite, whose fall had been foreseen, as he had been supplanted in the King's affections by the younger, the handsomer, and the more sprightly Villiers; but he and his wife had some royal secrets in their keeping, which there was a dreadful apprehension that they might disclose when they stood at the bar, and had nothing more to hope or to fear on this side the grave. The plan adopted, with the sanction of the Chancellor, was to hold out to them an assurance of mercy if they demeaned themselves discreetly; but, by way of precaution,—along with some frivolous questions, such as “whether the axe was to be carried before the prisoners, this being a case of felony?” and “whether, if there should be twelve votes to condemn, and twelve or thirteen to acquit, it would not be a verdict for the King?”—the Judges were asked “whether, if my Lord of Somerset should break forth into any speech taxing the King, he be not presently by the Lord Steward to be interrupted and silenced?”

The inferior agents in the murder having been convicted under a special commission sitting at the Guildhall, London, Lord Ellesmere, the Chancellor, was appointed Lord High Steward for the trial of the Earl and Countess of Somerset before their Peers. It was concerted that the Lady was to plead *guilty*, and her trial was appointed to come on the first. Lord Ellesmere, as Lord High Steward, rode on horse-back in great state from York House to Westminster Hall, attended by the Peers who were summoned to sit on the trial. Then came the Judges and Serjeants at Law who were to act as assessors. The Court being constituted, the Countess was brought into the Hall; but the ceremony of carrying the axe before her was omitted. She stood pale and trembling at the bar, and when addressed by the Lord High Steward she covered her face with her fan; but I do not find any question made as to her having been personally present on this occasion, although in a prior judicial investigation she was supposed, concealing her face, to have been represented by a young virgin of her age and stature. Making a low courtesy to the Lord High Steward, she now confessed that the charge against her in the indictment was true, and she prayed for mercy.

The Lord High Steward, holding his white wand in his hand, thus addressed her:—“Frances Countess of Somerset, whereas thou hast been indicted, arraigned, and pleaded guilty, it is now my part to pronounce judgment; only thus much before, since my Lords have heard with what humility and grief you have confessed the fact, I do not doubt they will signify as much to the King, and mediate for his

grace towards you ; but in the mean time, according to the law, the sentence must be this, that thou shalt be carried from hence to the Tower of London, and from thence to the place of execution, where you are to be hanged by the neck till you be dead ; and the Lord have mercy upon your soul."

Ten days after, the Earl of Somerset was brought to his trial with the like solemnities ; but as he refused to plead *guilty*, the Lieutenant of the Tower told him roundly that " if in his speeches he should tax the King, the justice of England was that he should be taken away, and the evidence should go on without him, and then all the people would cry, *Away with him !* and then it should not be in the King's will to save his life, the people would be so set on fire."

When he had been arraigned, Ellesmere, as Lord High Steward, affected to desire him to make his defence boldly, " without fear," but evidently attempted to intimidate him by adding, " To deny that which is true increases the offence ; take heed lest your wilfulness cause the gates of mercy to be shut against you."\*

The prisoner abstained from any attack on the King, and the trial was conducted decorously to its close, the counsel for the Crown first reading the written depositions of the witnesses, and then presenting the witnesses themselves to be examined by the prisoner or the Peers. The proofs were complete, the verdict of guilty unanimous, and sentence of death was pronounced in due form.

These two titled culprits were far more guilty than the inferior agents employed by them, on whom the rigour of the law had taken its course ; yet, according to the understanding which had been entered into with them, they were respite from time to time, and at last a pardon was granted to them, reciting that Lord Ellesmere, and the other Peers who tried them, had undertaken to intercede in their favour.† In the annals of crime there is not a murder more atrocious for premeditation, treachery, ingratitude, and remorselessness, than the poisoning of Sir Thomas Overbury by the Somersets. The execution of Lord Sanquhar for killing the fencing-master, was the subject of much self-laudation to James ; but the guilt of this nobleman was venial in comparison. Although it be possible that the remains of tenderness might alone have now actuated the royal mind, there must ever remain a suspicion that Ellesmere assisted him in screening from justice persons who, while convicted of a crime of the deepest

\* Who would suppose that a poetical thought should be borrowed from a Lord High Steward on a trial for felony ? — Yet the coincidence between Ellesmere and Gray could hardly be accidental,

" Forbad to wade through slaughter to a throne,  
And shut the gates of mercy on mankind."

† " Cumque Tho. Dominus Ellesmere Cancellar n' Anglie et Magnus Seneschallus nr' Anglie ea vice existens necnon omnes pares ejus per quorum judicium convicta fuit ad humil. petitionem ejusdem Franciscæ publice fact. promisso suo ad intercedend. pro misericordia nostra regia, erga eam solemniter se obstrinxerunt," &c.

malignity, were in possession of some secret which the monarch on the throne was desirous should be for ever buried in oblivion.

These prosecutions being over, the Lord Chancellor joined in a scheme, not much to his credit, to dismiss Sir Edward Coke from his office of Lord Chief Justice of the King's Bench. This is supposed to have originated with Buckingham, who then had a private quarrel with him about the appointment to a lucrative place in his Court; but the Chancellor, instead of standing up, as would have become him, for the independent administration of justice, rejoiced in the opportunity of being revenged upon a man who had injured him—little conscious that he was lowering his own character, and giving fresh lustre to that of his hated rival.

A cause happened to be argued in the Court of King's Bench wherein the validity of the grant of a benefice to be held *in commendam*, or along with a bishopric, came into question, and counsel at the bar had denied the prerogative of the King to make such a grant. For the purpose of involving the Chief Justice in a quarrel that might give a pretence for cashiering him, the Chancellor and the Attorney General concocted a letter to him in the King's name, under the Privy Seal, forbidding the Court to proceed further in the cause, "*Rege inconsulto*,"—until the King's advice should be taken upon a matter touching his prerogative. At Coke's request, similar letters were written to all the other judges, so that the obligation created by such a prohibition might be solemnly considered.

The twelve Judges having assembled,—by a writing which they all subscribed, they certified his Majesty that "they were bound by their oaths not to regard any letters contrary to law, and that the letters in question being contrary to law, they were bound to proceed to hear the cause argued, and to do justice between the parties." They were summoned, as criminals, before the Council, and the King, with the Chancellor on his right hand, inveighed against the manner in which popular lawyers were allowed to tread on his prerogative, and pronounced the remonstrance of the Judges highly indecent, as they ought at once to have submitted to his princely judgment. All the twelve dropped down on their knees, and acknowledged their error as to the form of their answer; but Coke manfully entered on a defence of the substance of it, maintaining that "the delay required was against law and their oaths."

James appealed to the Lord Chancellor, who, showing an utter want of dignity and courage, said he should first like to hear the opinion of the Attorney General. Bacon, without hesitation, asserted that "putting off the hearing of the cause, in obedience to his Majesty's command, till his Majesty might be consulted,—to his understanding, was, without all scruple, no delay of justice nor danger of the Judges' oaths, and begged the Judges to consider whether their conscience ought not to be more touched by their present refractory conduct, for it is part of their oath to counsel his Majesty when called; and if they will proceed first to give judgment in Court in a business whereon

they are called to counsel, and will counsel him when the matter is past, it is more than a simple refusal to give him counsel."

The chief Justice fired up at this impertinence, and took exception that the counsel, whose duty it was to plead before the Judges, should dispute with them. Mr. Attorney retorted, that "he found that exception strange, for that the King's learned counsel were by oath and office, and much more where they had the King's express commandment, without fear of any man's face, to proceed or declare against any the greatest peer or subject of the kingdom, or against any body of subjects or persons, were they Judges or were they of the upper or lower House of Parliament, in case they exceed the limits of their authority, or take any thing from his Majesty's royal power or prerogative; and concluded that this challenge, in his Majesty's presence, was a wrong to their places, for which he and his fellows did appeal to his Majesty for reparation." James affirmed that "it was their duty so to do, and that he would maintain them therein."

The Lord Chancellor, now plucking up courage, declared his mind plainly and clearly that "the stay by his Majesty required was not against the law, nor a breach of the Judges' oath."

This question was then propounded to the Judges, "Whether if at any time, in a case depending before the Judges, his Majesty conceived it to concern him either in power or profit, and thereupon required to consult with them, and that they should stay proceedings in the mean time, they ought not to stay accordingly?" With the exception of Lord Chief Justice Coke, they all submissively said *they would*, and acknowledged it to be their duty so to do. "Having been induced," says Hallam, "by a sense of duty, or through the ascendancy Coke had acquired over them, to make a show of withholding the Court, they behaved like cowardly rebels, who surrender at the first discharge of cannon, and prostituted their integrity and their fame through dread of losing their offices, or rather perhaps of incurring the unmerciful and ruinous penalties of the Star Chamber."\* Not so the undaunted Chief Justice. He returned this memorable reply, which for firmness, moderation, simplicity, and true grandeur, is not surpassed by any recorded saying of a constant man threatened by power in the discharge of a public duty, "When the case shall be, I will do that which shall be fit for a Judge to do."

The recreant *puisnes*, from whom nothing was to be feared, were pardoned, but the Chief had shown a spirit which might be troublesome in the execution of the plan now adopted of trying to govern without a parliament, and he was to be punished. He was first suspended from the public exercise of his office, being directed, instead of sitting in Court and going the circuit, to do business at Chambers, and to employ himself in correcting his reports; and soon afterwards he was superseded, and a successor was appointed in his place.† Although

\* *Const. Hist.* vol. i. p. 476.

† *Bacon's Works*, vi. 123. 125. 127. 130.

he soon rallied from the blow, and had his revenge by becoming leader of the opposition when it was found necessary to call a parliament, his [JULY 30, 1616.] enemies had the gratification to hear that when the supersedeas was put into his hand, he trembled and wept,—indicating that he would have been better pleased to involve himself in his robes than in his virtue.\*

Although the aged Ellesmere, prompted by Bacon, took a very active and cordial part in the dismissal of Coke, he [Nov. 18, 1616.] decently pretended to regret it. In a letter written by him to the king on that occasion, he says, “I know obedience is better than sacrifice; for otherwise I would have been an humble suitor to your Majesty to have been spared in all service concerning the Lord Chief Justice. I thank God I forget not the fifth petition, *Dimitte nobis debita nostra sicut, &c.* But, withal, I have learned this distinction; there is, 1. *Remissio vindictæ*; 2. *Remissio penæ*; 3. *Remissio judicij*. The two first I am past, and have freely and clearly remitted. But the last, which is of judgment and discretion, I trust I may, in Christianity and with good conscience, retain.”†

His speech on swearing in Sir Henry Montagu, Coke's successor, however, shows that he had neither remitted his desire of vengeance nor of punishment. He ungenerously took the opportunity of insulting his fallen foe, by cautioning the new Chief against the supposed faults of the one dismissed, and by an affected contrast between the latter and Montagu's grandfather, who had been Chief Justice of the Common Pleas in the reign of Elizabeth.

*Lord Ellesmere.*—“This is a rare case, for you are called to a place vacant not by death or cession, but by a motion and deposing of him that held the place before you. It is dangerous in a monarchy for a man holding a high and eminent place to be ambitiously popular; take heed of it. In hearing of causes, you are to hear with patience, for patience is a great part of a Judge; better hear with patience prolixity and impertinent discourse of lawyers and advocates than rashly, for default of the lawyer, to ruin the client's cause: in the one you lose but a little time, by the other the client loseth his right, which can hardly be repaired. Remember your worthy grandfather, Sir Edward Montagu, when he sat Chief Justice in the Common Pleas: You shall not find that he said vauntingly, that he would make Latitatis Latitare; when he did sit Chief Justice in this place, he contained himself within the word of the writ to be Chief Justice as the King called him *ad placita coram nobis tenenda*, but did not arrogate or aspire to the high title of Capitalis Justitia Anglie or Capitalis Justiciarius Anglie—an office and title which Hugh de Burgh, and some few others, held in the times of the Barons' wars, and whilst the fury thereof was not well ceased.‡ He devised not any new construction

\* *Ibid. v. 433.*

† *Ibid. vi. 399.*

‡ There had been a keen controversy respecting Coke's right to call himself “Chief Justice of England.” Ellesmere is quite wrong in supposing that this was

of laws against Commissioners and Judges of sewers, nor to draw them into the danger of premunire. *He* never strained the statute of 27 Edward III. c. 1. to reach the Chancery, and to bring that Court, and the ministers thereof, and the subjects that sought justice there, to be in danger of premunire, an absurd and inapt construction of that old statute. *He* never made “*Teste Edwardo Montagu*” to jostle with *Teste meipso*, but knew that the King’s writ *teste meipso* was his warrant to sit in this place. *He* doubted not but if the King, by his writ under his Great Seal, commanded the Judges that they should not proceed *Rege inconsulto*, then they were dutifully to obey. *He* challenged not powers from this Court to correct all misdemeanours, as well extra-judicial as judicial, nor to have power to judge statutes void if he considered them to be against common right and reason, but left the parliament and the King to judge what was common right and reason.\* Remember the removing and putting down your late predecessor, and by whom, which I often remember unto you, that it is the great King of Great Britain, whose great wisdom, and royal virtue, and religious care for the weal of his subjects, and for the due administration of justice, can never be forgotten.”

This may be considered his dying effort.

His indisposition returned, and he seems sincerely to have wished to retire from public life. He thus wrote to the King: —

“ MOST GRACIOUS SOVEREIGN,

“ I find through my great age, accompanied with griefs and infirmities, my sense and conceipt is become dull and heavy, my memory decayed, my judgment weak, my hearing imperfect, my voice and speech failing and faltering, and in all the powers and faculties of my mind and body great debility. Wherefore, *conscientia imbecilitatis*, my humble suit to your most sacred Majesty is, to be discharged of this great place, wherein I have long served, and to have some comfortable testimony, under your royal hand, that I leave it at this humble suit, with your gracious favour; so shall I with comfort number and

a title only during the Barons’ wars, as the office of Chief Justice of England, the highest both in the law and the state, certainly subsisted from the Conquest till the reign of Edward I. From the time when that monarch remodelled the judicial system, the head of the King’s Bench was generally called “Chief Justice to hold pleas before the King himself,” and he became subordinate to the Chancellor.

\* This is Ellesmere’s best hit, for Coke had written such nonsense (still quoted by silly people) as “that in many cases the common law shall control acts of parliament, and sometimes shall judge them to be merely void; for where an act of parliament is against common right and reason, the law shall control it and adjudge it void.” — Dr. Bonham’s case, 8 Rep. When questioned for this doctrine before the Council, he was so absurd as to defend it, and give as an example, “that if an act of parliament were to give to the lord of a manor consuance of all pleas arising within his manor, yet he shall hold no plea whereunto himself is a party for *iniquum est aliquem sue rei esse judicem*,” thus proceeding on the *construction* not the *repeal* of the Act by the Court.—See Bacon’s Works, vi. 397.

spend the days I have to live in meditation and prayers to Almighty God to preserve your Majesty, and all yours, in all heavenly and earthly felicity and happiness. This suit I intended some years past, ex dictamine rationis et conscientiae; love and fear staid it: now necessity constrains me to it: I am utterly unable to sustain the burthen of this great service, for I am now come to St. Paul's desire, *Cupio dis- solvi et esse cum Christo*: Wherefore I most humbly beseech your Majesty most favourably to grant it.

“Your Majesty's most humble and loyal

“poor subject and servant,

“THOMAS ELLESMORE, Canc.”\*

The King sent him a kind answer, saying, among other things, “When you shall remember how ill I may want you, and what miss your Master shall have of you, I hope the reason will be predominant to make you not strive with, but conquer, your disease, not for your own sake, but for his of whom you may promise yourself as much love and hearty affection as might be expected from so thankful and kind a Master to so honest and worthily deserving a servant.” Prince Charles likewise wrote him a kind letter, concluding with a prayer “that God would give him health and strength of body and mind, so that the King, Queen, the Prince himself, and whole kingdom might long enjoy the fruit of his long, wise, and religious experience.”

The Chancellor, however, pressed his application in a second letter, very long, pedantic, and twaddling, which must have convinced the King that the interest of the suitors required that the resignation should not much longer be refused.† The King, however, wishing to treat him with all respect and delicacy, although he promised speedily to comply with his request, urged him to hold the office a short time longer, and mean while raised him to the rank of a Viscount, by the title of Viscount Brackley.‡

He was installed with great pomp before the King, although parliament was not sitting, and we have a programme of the ceremony from a letter addressed to him from Garter King at Arms:—

“To the Right Honorable my very good Lord Sir Thomas Egerton, Knight Baron of Ellesmere, &c. Lord Chauncellor of England.

“Right Honorable and my very good Lord, my manyfold occasions of service at this tyme hath caused some neglect, w<sup>ch</sup> I hope your Lp. will excuse.

“For your Lp.'s Creation theis thinges are necessarily required to

\* Down to the reign of Charles II. Peers in signing prefixed their Christian name to their title. All persons in office in signing the most familiar letter subjoined their official designation.

† After many quotations from the classics, he cites stat. 13 Ed. 1. “*Homines excedentes 70 annorum non ponantur in assisis et juratis.*”

‡ He is always called, in law-books and histories, Lord Ellesmere, and Lord Brackley would sound as strange in our ears as Lord Verulam, or Lord St. Alban's.

be in redynes, — your Letters Patentes, and your Creation robes of a Viscount, being crimson vellet, a Capp, and Circlett.

“ Touching the manner of your Lp.’s introduction, you are to be brought in to his Ma<sup>re</sup> between a Viscount and an Earle, myself going formost beares your Lp.’s Letters Patentes. A Baron followeth after with your upper robe crosse his armes; and a second Baron beareth your capp and circlett. All theis estates are invested in their robes, your Lp. onlye in your Kirtle or under-garment, with your whood.

“ When wee approche the Kinges presence wee make three lowe reverences, w<sup>ch</sup> my self, being first in the proceeding, dothe direct. The Letters Patentes I deliver to the Lo. Chamberlen, and hee the same to his Ma<sup>re</sup>. His Ma<sup>re</sup> givith yt to one of the Secretaries to read.

“ Your Lp. kneeling before the King, at the whoords ‘ Creamus & investimus,’ your robe is putt on, and your capp and circlett sett upon your head. And so the Patent being redd throughe your Lp. concludes with a speache of thankfullnes to his Ma<sup>re</sup> which you can best performe.

“ Publique feast there needeth none, nor any divulgation of your Lps. stiles, thoughe antiently that hath byn used, for the three last Barons that were made, viz, Wing, Houghton, and Tenham, had not any which may searve for presidentes. And so I rest ever,

“ At your Lp.’s service,

“ WILLIAM SEGAR, Garter.”\*

In the Egerton Papers there is a curious bill by Garter King at Arms of “ Fees, due to the Kinge’s Servants for the Creation of a Viscount: —

To Mr. Garter himself.	Imprinmis to Mr. Garter for his Lp.’s garmentes	xii
To Mr. St. George.	To the Officers of Armes	xii
To Hughes, their servant.	To the Gent. Ushers dayly Wayters	xii
To Sir William Twidien.	To the Gent. Ushers of the Privy Chamber	vii
To Serjt. Benet, et al.	To the Sergeants of Armes	vii
To Mr. Lovell.	To the Quarter Wayters	vii
To Mr. Roffingam.	To the Sewers	vii
To Mr. Armiger.	To the Yeomen Ushers	ijij <sup>ii</sup> vj <sup>1</sup> viij <sup>4</sup>
To Sir T. Cornwallis.	To the Groome Porter	xl <sup>4</sup>
To Mr. Hoddesdon.	To the Groomes and Pages	ijij <sup>ii</sup> vj <sup>1</sup> viij <sup>4</sup>
To the Sergt. &c.	To the Trumpettes	vj <sup>4</sup>
To Mr. Gosson, Drum Major.	To the Drommes	xi <sup>4</sup>
To old Mr. Harden, et al.	To the Kinges Musicians, 4 companyes	vij <sup>1</sup>
To Mr. Huntley.	To the Buttry	xx
To Mr. Serjt. Blagrove.	To the Pantry	xx
To Mr. Snowe.	To the Ewery	xi <sup>4</sup>
To Mr. Todd.	To the Sellor	xx
To Mr. Daniell, clearke.	To the Cookes	xl <sup>4</sup>
To Mr. Fynch.	To the Porters	iiij <sup>iiii</sup>
To Rafe, &c.	To the Kinges footmen	ijij <sup>ii</sup> vj <sup>1</sup> viij <sup>4</sup>

Summa tot. lxvij<sup>iiii</sup>

WILLM. SEGAR, Garter.

\* See F. Egerton MSS. The letter is endorsed in Lord Ellesmere’s hand-

However, he had little enjoyment of his new dignity, and his infirmities sorely oppressed him.

At last, on the 3d of March, 1617, when he had become bed-ridden, James kindly paid him a visit at York House, and in person consented to accept his resignation, with many acknowledgments of his past services.\* Two days after, Buckingham and Secretary Winwood, by the King's command, came to York House to receive the Great Seal. The aged Chancellor still in bed, ordered his son, Sir John Egerton, to produce it, and in its white leather bag, enclosed in the silk purse adorned with the royal arms, it was reverently delivered to them, and they, accompanied by Sir John Egerton, conveyed it to the palace at White-Hall, and placed in the hands of King James, who exercised the unconstitutional privilege, prized by Elizabeth, of sealing a grant with it while there was no responsible Chancellor or Lord Keeper.

On the 7th of March it was in the hands of FRANCIS BACON, the greatest of the great men who have ever held it.

Lord Ellesmere survived his resignation only a few days. While his indisposition was gaining upon him, Buckingham and the new Lord Keeper waited upon him with an offer from the King to create him Earl of Bridgewater, to make him President of the Council, and to grant him a pension of 3000*l.* a year. "He was so far past that no words or wordly compact could work with him, and thanking his Majesty for his gracious favours, he said *that these things were all to him but vanities.*"†

He expired at York House on the 15th of March, 1617, in the seventy-seventh year of his age, having held the Great Seal for a longer period, continuously, than any of his predecessors or successors.‡ He met his end with such composure as to call forth the observation from Camden, "Forte quando propius reipublicæ mala viderat, ut integer honestum finem voluit."

writing. "The manner of creation of a viscount, things necessary thereto. Rec'd 4<sup>o</sup> 9<sup>th</sup> 1616.

\* "Memdem qd die Lune, &c. Dns Rex accessit Yorkehouse in pochia Sci Martini in Campie London Dom. Mancional. Thome Vicecomitis Brackley Dni Cancell. Angl. ut ipsum agrotantem visitaret et tunc dignatus est Dns Rex humili petitioni dci Dni Cancell. gratiose annuere qm pr duos annos integros a Majestate sua regia petebat videl. ut mgn sigill. Angl. in manus Dni Regis sursum redderet et toleret et ab ejusdem custodia libaret quia pro estate egritudine aliisque corporis infirmitatibus seipsum ad onera et servicia debita et assueta sustinenda inhabilem omnino se sentiret." — Cl. R. 16 Jac. 1. Camden says, "Rex invitat Cancellarium languentem et ex invalida senectute officio cedere volentum, Cancellarius sigillum in manu Regis lachrymantis tradidit." — Camd. Ann. Jac. A great question has been raised as to the exact time when he actually delivered up the Seal, but all doubt is removed by a reference to the Close Roll.

† Carlton's Letters, Birch MS. 4175. In the month of January preceding he had resigned the Chancellorship of the University of Oxford, which had been conferred upon him in 1610.

‡ From May 6, 1596 to March 5, 1617. Lord Eldon was Chancellor longer but with an interval of above a year, during the Fox and Grenville administration.

He was buried at Doddlestone, in the county of Chester. He lies in the chancel of the parish church, under a flag-stone without any name upon it, but with the following inscription, on a white lozenge, in the centre of the stone —

“Anchora Animæ  
Fides et Spes :  
In Christo,  
Orimur Morimur.  
Sequentur qui non  
Præcesserint.”

In the year 1829 a handsome monument was erected to his memory by Francis the last Earl of Bridgewater, which bears the following inscription from the classical pen of the late Archdeacon Wrangham, the rector of the parish : —

“ Majorum Gloria Posteris quasi Lumen est  
Subtus jacet  
Quicquid mortale fuit  
Thomæ  
Baronis de Ellesmere  
Et Vice Comitis de Brackley  
Viri antiqua virtute ac fide  
Per viginti plus annos  
Regni Angliæ  
Cancellarii  
Scientia Scriptis Eacundia  
Spectatissimi  
Hominibus exemptus est  
IV ID April  
Anno sacro M DC XXVII  
Æ circiter LXXVII  
Orimur Morimur  
Sequentur qui non præcesserint.”\*

Considering the times in which Lord Ellesmere lived, and comparing him with his contemporaries who reached high office, we are bound greatly to respect his memory. Neither he nor any other mortal man could deserve the panegyric upon him by a contemporary historian who knew him well, “ Nihil in vita nisi laudandum aut fecit, aut dixit, aut sensit; ”† but in thought, word, and deed, his errors were venial. We may pardon his enmity to Sir Edward Coke, who had tried to cover him with disgrace when he was supposed to be upon his death-bed. With all his other rivals and political opponents he seems to have lived on terms of courtesy, if not of kindness. He never betrayed a friend.

\* This mark of respect to a great man was paid on the suggestion of my valued friend Mr. Sergeant Atcherley, to whose kindness I am indebted for the copy of the inscription, and several important particulars respecting the Egerton family.

† Hacket's Life of Bishop Williams.

As a politician he always stood up for the extension of the prerogative, and his doctrines were often inconsistent with our notions of a free constitution ; but we must remember that precedents might then be cited for almost every exercise of arbitrary power ; and the great patriot Sir Edward Coke, with other eminent men, as late as the Revolution of 1688, laid it down for law, that an act of parliament to abolish the dispensing power would be inoperative, as the King would first dispense with the abolishing act, and then with the penalty to be dispensed with.

While Lord Ellesmere was Chancellor the few state prosecutions which were instituted took a milder and more regular form ; and if the Somersets were improperly pardoned, he was not accessory, like many of his predecessors, to the unjust shedding of noble blood.

His great natural abilities had been assiduously cultivated, and he was one of the best public speakers who had yet appeared in England. His apprehension was keen and ready, his judgment deep and sound, and his elocution elegant and easy. "He was a grave and great orator, and best when he was provoked."<sup>\*</sup>

As an Equity Judge he gained more applause than any one who had sat before him in the marble chair. With a knowledge of law equal to Edward III.'s lay Chancellors, Parnyng and Knyvet, so highly eulogised by Lord Coke, — he was much more familiar with the principles of general jurisprudence. Not less noted for despatch and purity than Sir Thomas More, he was much better acquainted with the law of real property, as well as the practice of the Court in which he had long practised as an advocate ; and exhibiting all the patience and suavity of Sir Nicholas Bacon, he possessed more quickness of perception and a more vigorous grasp of intellect. Many ecclesiastical holders of the Great Seal were to be admired as statesmen and scholars, but none had been competent, without assistance, satisfactorily to preside in the judgment-seat.

Ellesmere, while in his vigour, had himself disposed of the whole business of the Court of Chancery. In his declining years he required assistance : but to the last, every case of magnitude he heard and decided in person. During the whole of his time, there seems to have been an entire cessation of all impeachment of the Court of Chancery either for delay or corruption ; and the only complaint against him that he exceeded his jurisdiction, was decided in his favour.

He was very solicitous for the honour of the bar, which then seems to have had members much given to lying, quarrelling, making fraudulent bargains with their clients, and, when it suited their purpose, to insulting the Judge. During the hearing of the case of Randolph Crew, 9 Jac. 1., according to an accurate reporter, " Le Seignior Chancellor dit, Benedictus Dominus Deus justitiae ! et il-exhort les Lawyers

\* Ben Jonson.

destre veriloqui, pacidici, et nemy de pticipater en le benefit dascun suit ; ut gratiose se gerant et Judici in judicio ne prejudicent.”\*

The practice of the King interfering with suits by writs of Privy Seal, under pretence that one of the suitors was in the royal service, still continuedt ; but there is no reason to suppose that Ellesmere was influenced by these beyond granting delay,—and all members of parliament were considered entitled to the like privilege.

When any cause was depending before him in which a Peer was concerned, he give him notice, by a missive under his hand, of the time appointed for hearing it;† but he never was suspected of unduly leaning in favour of the aristocratic party any more than of seeking vulgar praise by becoming counsel for the poor ; and he had the rare good fortune to be, at the same time, the favourite of the Court and of the people.

Ellesmere is particularly to be commended for the exercise of his patronage. Unlike Cecil the father, and Cecil the son, to whom it is imputed by Bacon, their kinsman, that out of jealousy they wished to depress all rising men of merit, he was eager to befriend and bring forward all who were likely to be able to serve their country with

\* Moore, p. 819, 820.

† I subjoin a specimen :—

“ To our right trusty and welbeloved Councillor Thomas Lord Ellesmere, our Chancellor of England.

“ JAMES R.

“ Right trusty and welbeloved councillor, wee greet you well. Wee have heretofore recommended to you the case of Robert Wulverstone depending before you in Chauncery, because he had in the Parliament house shewed himself forward in our service, and our desire was, that either so much favour might be shewed him as with equitie might stand, or that nothing were done against him till the next terme ; since wee have been informed from him that his adversary preaseth him now out of terme, whereupon wee have thought good to require you, that because he hath other busines to attend in the vacation, he may not be urged to any thing till the terme, and that then a day certaine be given for the hearing of his cause which wee must leave for the equitie of the Court, not doubting but that you will regard one, of whose service wee are pleased to take notice, so farre forth as in justice you may. Given under our signet, at Leicester, the eighteenth day of August in the twelfth yeare of our raigne of England, France and Ireland, and of Scotland the eight and fortieth.” — *Eg. Pap. 464.*

‡ Lord Ellesmere to the Earl of Shrewsbury, —

“ After my verie harte commendacions unto yo<sup>r</sup> Lopp. Whereas the cause dependinge in the Chancerye wherein Humfrey Briggs, Esqr. is pl. and yo<sup>r</sup> Lopp deft, is sett downe to be heard in Courte on Thusday the 9<sup>th</sup> day of November next, I am att the pl<sup>th</sup> instance to give yo<sup>r</sup> Lopp notice thereof by this my l<sup>re</sup>, according to the manner used toward such persons of honor ; praying and requyring yo<sup>r</sup> Lopp hereby to take knowledge thereof, and to give order unto those whom you employe in such yo<sup>r</sup> causes to attende the hearing of judgement in the sayd cause accordingly ; whereof hoping there shall be no default on your Lopp<sup>re</sup> parte, I bidd yo<sup>r</sup> Lopp verie harte farewel.

“ Yo<sup>r</sup> Lopp<sup>re</sup> assured friend,

“ T. ELLESMORE, Canc.

“ Att York House, July 16, 1609.

“ To the Right Ho<sup>bl</sup> my good Lorde the Earle of Shrewsbury.

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credit and advantage. He strongly supported Bacon's claim to the offices of Solicitor and Attorney General; and recommended him as his successor. As another example, I may mention that having heard Williams, afterwards Bishop of Lincoln and Lord Keeper, when a tutor at Cambridge, preach a sermon which displayed great talent,—although a stranger to him, he made him his chaplain, and advanced him in the King's service, so that he afterwards attained the highest honours in the church and state.

In making Judges (a most important part of the duty of a Lord Chancellor, for by a bad judicial appointment no one can calculate the aggregate amount of evil inflicted on the community) Ellesmere deserves particular credit. His anxiety on this subject appears from a letter he wrote on the accession of King James, recommending a new call of Serjeants, “consideringe that moost of the Judges are aged, and the Serjeantes at Lawe now servinge at the barre not so sufficent to suplye judicall places as were to be wyshed (ne quid dicam durius),”\*—a state of that venerable Court very different from what we have constantly seen in our time, when if, by a new gunpowder plot exploding at the Chancellor's levee the first day of term, all the Judges should suddenly be swept off,—the benches of the different Courts in Westminster Hall might well be replenished from the order of the coif.

Afterwards, two vacancies occurring, he applied for advice to the Lord Chief Justice, as better acquainted with the common-law bar,—and Popham's answer shows that *wealth* (probably on account of the low salaries) as well as skill in the law, was considered necessary for a Judge. “I have thought good to recommend these names to your L., to be preferred to hys Ma<sup>re</sup>, to make hys choyse of two, if it may so seeme good to your L., or to add or to alter the same as your L. shall thynk best: my brother Danyell, my brother Williams, my brother Tanfyld, and my brother Altham, all men learned *and of good estate.*”†

His great church patronage, likewise, he dispensed with a single view to the public weal. “Livings,” said he, “rather want learned men than learned men livings, many in the Universities pining for want of places. I wish, therefore, some may have single coats before others have doublets; and this method I have observed in bestowing the King's benefices.”‡

Lord Ellesmere was too deeply engaged in professional and official pursuits himself to worship the Muses; but he was the friend and patron of poets. He was particularly kind to Spenser, with whom he was connected by marriage, and assisted him in his suits both in Ireland and at the Court of Elizabeth. We have seen that he patronised the plays of Shakspeare; and he is said to have been assisted in masques which he gave to the Court by Ben Jonson. The name of

\* Egerton Pap. 372.

† Egerton Pap. 389.

‡ Speech at the conference of Divines at Hampton Court, 1603-4.

Milton will be associated with the Egerton family while the English is known as a spoken or a dead language ; but the author of "Comus" was only nine years old at the death of the Chancellor ; and although he was, no doubt, carried from Horton to Harefield to see the old Peer, he could only have been patted by him on the head, and sent into the buttery to have the wing of a capon and a glass of sack.

Although Lord Ellesmere had so little leisure for polite literature, he is to be placed in the catalogue of noble and royal authors. He wrote four treatises : 1. On the Prerogative Royal ; 2. On the Privileges of Parliament ; 3. On Proceedings in Chancery ; 4. On the Power of the Star Chamber. These remaining in MS. at the time of his death, Williams, his chaplain, when offered any legacy he might choose, begged to have them, and afterwards presented them to King James. They have since been printed, but they do not add much to the fame of the writer.

Lord Bacon has recorded two of his jests, which, although they appear, among many of infinite value, in what Mr. Macaulay considers "the best jest-book in the world,"\* make us rather rejoice that no more of them have been preserved.

"They were wont to call referring to the Master in Chancery *committing*. My Lord Keeper Egerton, when he was Master of the Rolls, was *wont* to ask 'What the cause had done that it should be committed?'"

"My Lord Chancellor Ellesmere, when he had read a petition which he disliked, would say, 'What, would you have my hand to this now?' And the party answering 'Yes,' he would say farther, 'Well, you shall ; nay, you shall have both my hands to it.' And so would, with both his hands, tear it in pieces."†

He was a remarkably handsome and athletic man, and in his youth was much addicted to the sports of the field.‡ He retained his personal beauty in his old age, insomuch that many went to the Court of Chancery to gaze at him ; "and happy were they," says the facetious Fuller, "who had no other business there !!!"

Although he always lived in a style suitable to his station, he left entirely of his own conquest landed estates to the value of 8000*l.* a

\* Macaulay's Essays, vol. ii. p. 372.

† This it seems was a standing equity jest, and threw the bar into an agony of laughter every term.

‡ Bacon's Apothegms. Works, vol. ii. 426. 462.

§ In the Egerton Papers is preserved a licence to sport granted to him when Solicitor General. Indorsed "The L. Pagettes Warraunt.

"These are to will and commaunde you, and every of youe, that whensoever my verie good frend, Mr. Thomas Egerton, Esquier, hir Ma<sup>th</sup> Sollycitour Generall, shall come into any my parkes in Staffordshire within your severall chardges, thatt youe attend upon him and make him the best spoerte that youe maie, geving him free libertie to hant and kill within the same parkes att his pleasure. And likewise whensoever he shall dyrect his letters to youe, or anie of youe, for the having off anie somer or wynter deare, that youe deliver the same unto such persons as he shall appoinete, takinge care thatt he be verie well servēd theroff. And

year—equal to the wealth of the high hereditary nobility of that time.\*

His first wife was Elizabeth, daughter of Thomas Ravenscroft, of Bretton, in the county of Flint, by whom he had two sons,—Sir Thomas, whose death in Ireland we have mentioned, and Sir John, who succeeded to his honours. The Chancellor married, secondly, the widow of Sir John Walley, of Pitfield, sister of Sir George More; and, lastly, Alice, daughter of Sir John Spencer, of Althorpe, in the county of Northampton, and widow of Ferdinando Earl of Derby, by neither of whom he had any issue. The latter survived him many years, and fostered the opening genius of Milton.

“The Grandeur of the Law”† shows that many distinguished noble

these letters shalbe a suffycyente warrant, from tyme to tyme, to youe and euerie of youe in this behalfe. Fare youe well. From Draiton, this xxxij<sup>th</sup> off Maie, 1583.

“Yor. mar.

“J. PAGET.

“To Richard Sneade, keper of my parke at Beaudesert. Willm Crispe, keper of my parke att Seney. And to John Godwin, keper of my great parke att Bromley Pagett. And to every of them, and in ther absence, to the deputie and deputies, and to every of them.” — *Egerton Pap.* 95.

There is likewise in the same collection the formal appointment of him while Solicitor General as “Master of the Game” to Henry Earl of Derby, with the fee of a buck in summer and a doe in winter, with an annuity of five marks, and a power to distrain in case of arrears. — *Eg. Pap.* 96.

\* In 1606 he proposed that, like other Chancellors, he should have a grant of lands from the Crown (Egerton Papers, 408), but none appears to have been made to him. Among other reasons he urged the great expense to which he had been put in entertaining Queen Elizabeth at Harefield.

† In the book with this title by my friend Mr. Foss, he reckons 82 existing peerages sprung from the law:—

Dukes, 3.—	Cowper.	Viscount, 1.—
Norfolk.	Macclesfield.	Sydney.
Devonshire.	Buckinghamshire.	Barons, 40.—
Manchester.	Egremont.	Le Despenser.
Marquesses, 7.—	Guildford.	De Clifford.
Winchester.	Hardwicke.	Zouch of Harringworth.
Townshend.	Bathurst.	Howard de Walden.
Salisbury.	Clarendon.	Clifford of Chudleigh.
Exeter.	Mansfield.	Middleton.
Camden.	Talbot.	Montfort.
Alyesbury.	Fortescue.	Walsingham.
Bristol.	Roslyn.	Montagu of Boughton.
Earls, 31.—	Harrowby.	Kenyon.
Suffolk.	Verulam.	Thurlow.
Winchelsea.	Bradford.	Lyttleton.
Sandwich.	Eldon.	Bayning.
Cardigan.	Somers.	Bolton.
Carlisle.	Burlington.	Lilford.
Shaftesbury.	Effingham.	Basset.
Coventry.	Yarborough.	Alvanley.
Tankerville.	Leicester.	St. Helens.
Aylesford.	Lovelace.	Ellenborough.

houses owe their origin to Westminster Hall ; but I do not recollect any instance of the family of a lawyer who had raised himself from obscurity being so soon associated with the old aristocracy, or rising so rapidly to the highest rank in the peerage. John, the eldest surviving son, being created Earl of Bridgewater soon after his father's death, was married to a daughter of the Earl of Derby ; and being Lord President of the Principality and Marches of Wales, and Lord-Lieutenant of the counties of Salop, Hereford, Gloucester, Monmouth, Glamorgan, Caermarthen, Pembroke, Cardigan, Flint, Caernarvon, Anglesea, Merioneth, Radnor, Brecknock, Montgomery, and Denbigh, kept his Court at Ludlow Castle, where his children were going

— to attend their father's state  
And new entrusted sceptre —

— when passing through Haywood Forest they were benighted, and Lady Alice was for a short time lost. This incident gave rise to *Comus*, which was acted by her and her brothers, Lord Brackley and the Honourable Thomas Egerton.

After this illustration, the family derived little additional splendour from the Ducal Coronet, which, in another generation was bestowed upon them.

The male line of Lord Chancellor Ellesmere, after producing many great and honourable characters, has failed. Several distinguished families are proud to trace their descent from him through females, and every one would rejoice to see his titles restored to the English peerage.

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## APPENDIX.

I HAVE been favoured from the Egerton MSS. with copies of the following accounts of Lord Ellesmere's household expences, which throw much light on the manners of the times : —

“ Comparative Statement of Lord Ellesmere's household expences in 3 weeks in Febry 1602, and in 3 weeks in Fdy 1603.

Indorsed by Whitbe, ‘ For my L. better remembrance tuching howshold matters,’ and by Lord Ellesmere ‘ 28 Februarij, 1603.

---

Erskine.	Grantley.	Abinger.
Crewe.	Redesdale.	Hatherton.
Manners.	Wallace.	Cottenham.
Gifford.	Wynford.	Stratheden.
Lyndhurst.	Brougham.	Langdale.
Tenterden.	Chaworth.	Bruce.
Teynham.	Denman.	Campbell.

From Febr. 1602, usque 12 ibm.

Larder	-	-	-	-	25 <sup>lb</sup> 3 <sup>oz</sup> 1 <sup>d</sup>
Buttry	-	-	-	-	21 <sup>oz</sup> 6 <sup>d</sup>
Pantry and pastry	-	-	-	-	3 <sup>lb</sup> 3 <sup>oz</sup> 6 <sup>d</sup>
Sellor	-	-	-	-	3 <sup>lb</sup> 2 <sup>d</sup>
Wood and cole housee	-	-	-	-	6 <sup>lb</sup> 7 <sup>oz</sup> 0 <sup>d</sup>
Spycery	-	-	-	-	12 <sup>oz</sup> 8 <sup>d</sup>
Chaundry	-	-	-	-	3 <sup>lb</sup> 8 <sup>d</sup>
Sawcery	-	-	-	-	22 <sup>d</sup>
Rewardes	-	-	-	-	10 <sup>oz</sup> 6 <sup>d</sup>
Stable	-	-	-	-	4 <sup>lb</sup> 14 <sup>oz</sup> 2 <sup>d</sup>
Extraord. bylles	-	-	-	-	31 <sup>oz</sup> 6 <sup>d</sup>
 In toto	-	-	-	-	<u>47<sup>lb</sup> 10<sup>oz</sup> 9<sup>d</sup></u>

From Febr. 12. usque 19 ibm.

Larder	-	-	-	-	26 <sup>lb</sup> 4 <sup>oz</sup> 6 <sup>d</sup>
Buttry	-	-	-	-	44 <sup>oz</sup> 3 <sup>d</sup>
Pantry and Pastry	-	-	-	-	59 <sup>oz</sup> 3 <sup>d</sup>
Sellor	-	-	-	-	47 <sup>oz</sup> 3 <sup>d</sup>
Wood-yard and cole-housse	-	-	-	-	6 <sup>lb</sup> 8 <sup>oz</sup> 2 <sup>d</sup>
Spycery	-	-	-	-	14 <sup>lb</sup> 10 <sup>oz</sup>
Chaundry	-	-	-	-	32 <sup>oz</sup> 8 <sup>d</sup>
Sawcery	-	-	-	-	18 <sup>oz</sup> 5 <sup>d</sup>
Rewardes	-	-	-	-	6 <sup>oz</sup> 0 <sup>d</sup>
Stable	-	-	-	-	4 <sup>lb</sup> 1 <sup>oz</sup> 2 <sup>d</sup>
Extraord. bylles	-	-	-	-	3 <sup>lb</sup> 18 <sup>oz</sup> 6 <sup>d</sup>
 In toto	-	-	-	-	<u>51<sup>lb</sup> 19<sup>oz</sup> 7<sup>d</sup></u>

From Febr. 19. 1602, usque 26 ibm.

Larder	-	-	-	-	24 <sup>lb</sup> 13 <sup>oz</sup> 11 <sup>d</sup>
Buttry	-	-	-	-	53 <sup>oz</sup>
Pantry and Pastry	-	-	-	-	3 <sup>lb</sup> 0 <sup>oz</sup> 3 <sup>d</sup>
Sellor	-	-	-	-	24 <sup>oz</sup> 4 <sup>d</sup>
Wood-yard and cole-housse	-	-	-	-	6 <sup>lb</sup> 7 <sup>oz</sup> 0 <sup>d</sup>
Spycery	-	-	-	-	14 <sup>lb</sup> 11 <sup>oz</sup>
Chaundry	-	-	-	-	29 <sup>oz</sup> 8 <sup>d</sup>
Sawcery	-	-	-	-	20 <sup>oz</sup> 4 <sup>d</sup>
Rewardes	-	-	-	-	7 <sup>oz</sup> 10 <sup>d</sup>
Stable	-	-	-	-	4 <sup>lb</sup> 1 <sup>oz</sup> 2 <sup>d</sup>
Extraord. bylles	-	-	-	-	3 <sup>lb</sup> 11 <sup>oz</sup> 0 <sup>d</sup>
 In toto	-	-	-	-	<u>49<sup>lb</sup> 2<sup>oz</sup> 8<sup>d</sup></u>
 In toto le 3 weeks	-	-	-	-	<u>148<sup>lb</sup> 12<sup>oz</sup> 9<sup>d</sup></u>

From Febr. 4. 1603, usque 11 ibm.

Larder	-	-	14 <sup>ll</sup> 4 <sup>4</sup> 8 <sup>d</sup>
Buttry	-	-	47 <sup>4</sup> 0 <sup>d</sup>
Pantry and pastry	-	-	26 <sup>4</sup> 8 <sup>d</sup>
Cellor	-	-	26 <sup>4</sup> 4 <sup>d</sup>
Wood-yard and cole-house	-	-	3 <sup>ll</sup> 17 <sup>4</sup> 2 <sup>d</sup>
Spycery	-	-	10 <sup>4</sup> 4 <sup>d</sup>
Chaudry	-	-	17 <sup>4</sup> 8 <sup>d</sup>
Sawcery	-	-	14 <sup>4</sup> 8 <sup>d</sup>
Rewardes	-	-	5 <sup>4</sup> 6 <sup>d</sup>
Stable	-	-	56 <sup>4</sup> 5 <sup>d</sup>
Extraord. bylles	-	-	23 <sup>4</sup> 5 <sup>d</sup>
In toto	-	-	29 <sup>ll</sup> 10 <sup>4</sup> 10 <sup>d</sup>

From Febr. 11. usque 18 ibm.

My La.	Larder	-	6 <sup>ll</sup> 8 <sup>4</sup> 7 <sup>d</sup>
came	Buttry	-	51 <sup>4</sup> 4 <sup>d</sup>
this	Pantry and pastry	-	34 <sup>4</sup> 0 <sup>d</sup>
week	Wood-yard and cole-house	-	5 <sup>ll</sup> 5 <sup>4</sup> 6 <sup>d</sup>
upon	Spycery	-	8 <sup>4</sup> 11 <sup>d</sup>
Thurs-	Chaudry	-	22 <sup>4</sup> 10 <sup>d</sup>
day	Sawcery	-	14 <sup>4</sup> 5 <sup>d</sup>
supper	Rewardes	-	14 <sup>4</sup> 4 <sup>d</sup>
	Stable	-	3 <sup>ll</sup> 7 <sup>4</sup> 0 <sup>d</sup>
	Extraordin. bylles	-	52 <sup>4</sup> 7 <sup>d</sup>
In toto	-	-	36 <sup>ll</sup> 5 <sup>4</sup> 7 <sup>d</sup>

From Febr. 18. usque 25 ibm.

My La.	Larder	-	17 <sup>ll</sup> 0 <sup>4</sup> 8 <sup>d</sup>
here all	Buttry	-	3 <sup>ll</sup> 1 <sup>4</sup> 4 <sup>d</sup>
this	Pantry and pastry	-	37 <sup>4</sup> 11 <sup>d</sup>
weekes.	Cellor	-	31 <sup>4</sup> 6 <sup>d</sup>
	Wood-yard and cole-house	-	6 <sup>ll</sup> 8 <sup>4</sup> 4 <sup>d</sup>
	Spycery	-	20 <sup>4</sup> 11 <sup>4</sup> 3 <sup>d</sup>
	Chaudry	-	27 <sup>4</sup> 9 <sup>d</sup>
	Sawcery	-	17 <sup>4</sup> 14 <sup>d</sup>
	Rewardes	-	3 <sup>4</sup> 6 <sup>d</sup>
	Stable	-	3 <sup>ll</sup> 7 <sup>4</sup> 6 <sup>d</sup>
	Extraord.	-	18 <sup>4</sup> 5 <sup>d</sup>
In toto	-	-	37 <sup>ll</sup> 13 <sup>4</sup> 3 <sup>4</sup> 4 <sup>d</sup>
In toto le 3 weekes	-	-	103 <sup>ll</sup> 9 <sup>4</sup> 5 <sup>4</sup> 2 <sup>d</sup>

[Hence we see that Lord Ellesmere, between February 1602-3, and February 1603-4, comparing three weeks of each, had reduced his household expences from 148<sup>l</sup> 12<sup>s</sup>. 9<sup>d</sup>. to 103<sup>l</sup> 9<sup>s</sup>. 5<sup>d</sup>., making a difference of 45<sup>l</sup>. 3<sup>s</sup>. 4<sup>d</sup>. in three weeks.

The coming of Lady Derby considerably increased the weekly expences in the two last weeks.

Other accounts applying to 1604, show that the total cost of housekeeping had been considerably reduced.]

" Dec. 30. Personal rewards gyven by the Right Honorable the Lo. Chaunceller of England unto the officers of his Ma<sup>ts</sup> bowshold at New Yeare's tyde, 1608.

To the sellorer	-	-	x <sup>l</sup>	To theire men	-	-	v <sup>j</sup> viij <sup>d</sup>
The buttry	-	-	xx <sup>l</sup>	To theire men	-	-	v <sup>l</sup>
The pantry	-	-	xx <sup>l</sup>	To theire men	-	-	v <sup>l</sup>
The woodyard	-	-	xx <sup>l</sup>	To theire men	-	-	v <sup>l</sup>
The wardrobe	-	-	x <sup>l</sup>	To theire men	-	-	v <sup>l</sup>
The cookes on the Lo. syde	-	xxx <sup>l</sup>		To theire men	-	-	ij <sup>j</sup> viij <sup>d</sup>
The children of the kitchen	-	v <sup>l</sup>		To the turne broches	-	-	v <sup>l</sup>
The skoore broches	-	ij <sup>j</sup> viij <sup>d</sup>		To the blower	-	-	xij <sup>d</sup>
The four larders	-	-	xx <sup>l</sup>	To theire men	-	-	ij <sup>j</sup> viij <sup>d</sup>
The spycery	-	-	xx <sup>l</sup>	To theire men	-	-	iiij <sup>j</sup> iiiij <sup>d</sup>
The pastery	-	-	iiij <sup>j</sup> iiiij <sup>d</sup>	The children	-	-	iiij <sup>j</sup> iiiij <sup>d</sup>
The ewrye	-	-	x <sup>l</sup>	To theire men	-	-	ij <sup>j</sup> viij <sup>d</sup>
The skalding howse	-	-	v <sup>j</sup> viij <sup>d</sup>				
The boyling howse	-	-	x <sup>l</sup>	To the boyler	-	-	xij <sup>d</sup>
The skullery	-	-	iiij <sup>j</sup> iiiij <sup>d</sup>	To theire men	-	-	ij <sup>j</sup>
The children there	-	v <sup>l</sup>					
The pultrey	-	-	x <sup>l</sup>	To theire men	-	-	ij <sup>j</sup>
The chaundery	-	-	x <sup>l</sup>	To theire men	-	-	ij <sup>j</sup>
To the grommen and yeomen of the pryvie kitchen	-	-	xx <sup>l</sup>				
To the children there	-	-	v <sup>l</sup>				
To the turne broches and potseds	-	v <sup>l</sup>					
To the confectionary	-	-	vj <sup>j</sup> viij <sup>d</sup>	To theire men	-	-	ij <sup>j</sup>
To the sawsery	-	-	iiij <sup>j</sup> iiiij <sup>d</sup>				
To the swerd	-	-	xx <sup>l</sup>				
To the porters	-	-	xx <sup>l</sup>	To theire men	-	-	v <sup>l</sup>
To the herrolds	-	-	xx <sup>l</sup>	To the herbyngers	-	-	xx <sup>l</sup>
To the carte takers	-	-	xx <sup>l</sup>	To theire men	-	-	v <sup>l</sup>
To the gentlemen ushers in ordinarie	-	xi <sup>l</sup>					
To the quarter wayters	-	-	xx <sup>l</sup>				
To the trumpeters	-	-	xx <sup>l</sup>				
To the musitions	-	-	xx <sup>l</sup>				
To the pitcher howse	-	-	iiij <sup>j</sup> iiiij <sup>d</sup>				
To the tymber-yard	-	-	ij <sup>j</sup> viij <sup>d</sup>				
To the matlayer	-	-	ij <sup>j</sup>				
To the glasyer	-	-	ij <sup>j</sup>				
To the locksmith	-	-	ij <sup>j</sup>				
To the servantes of the skullery	-	-	ij <sup>j</sup> viij <sup>d</sup>				
To the sweeper	-	-	xij <sup>d</sup>				
To the porters and skoorers of the pryvie kitchen	-	-	-	-	-	-	ij <sup>j</sup>
To the wafrey	-	-	ij <sup>j</sup> viij <sup>d</sup>				
To the wood-houses	-	-	xij <sup>d</sup>				
To the dorekeeper of the pryvie kitchen	-	-	-	-	-	-	ij <sup>j</sup> viij <sup>d</sup>
To the pages of the chamber	-	-	-	-	-	-	xx <sup>l</sup>
To Greves, keeper of the councell chamber dore	-	-	-	-	-	-	x <sup>l</sup>
To them that keep the gallery dore within the councell chamber	-	-	-	-	-	-	v <sup>j</sup>
The closett	-	-	v <sup>l</sup>				
To his man	-	-	iiij <sup>j</sup> iiiij <sup>d</sup>	[obviously misplaced.]			
The bell-ringer	-	-	ij <sup>j</sup> viij <sup>d</sup>				
Receyved of my. Lord, Decemb. 31. 1608.	-	-	-	-	-	-	xxxij <sup>ll</sup> "

[At the back of the paper the account is thus stated]: —	
“ Rewards to the officers at the Court at New-year's tyde, 1608,	xxxij <sup>ii</sup> xij <sup>ii</sup> x <sup>4</sup>
a <sup>o</sup> R. Jaco. 6 <sup>o</sup> , viz. disbursed as within part <sup>icular</sup> ly appeareth	x <sup>4</sup>
More given in reward to the trumpetors	xxxij <sup>ii</sup> ij <sup>ii</sup> x <sup>4</sup>
In total disbursed	Unde

Receyvid of your Lop.	xxxij <sup>ii</sup> xij <sup>ii</sup>
Soe remayneth due to me	ij <sup>ii</sup> j <sup>ii</sup> x <sup>4</sup>

[To this is added in Lord Ellesmere's hand,] —

“ More v<sup>to</sup> to the keepers of the gallery.”

[N.B. This account accords exactly with another of the same kind at Xmas, 1608.]

[The following are copies of accounts of expences for Lord Ellesmere's grandchildren]: —

*“ Disbursed for Mrs. Arbella.*

Viz. to Mr. Arondell, a Frenchman, to teach her French for four moneths, }  
viz. from the 26<sup>th</sup> June, 1615, to the 26<sup>th</sup> of October next followinge, at }  
20<sup>o</sup> the moneth }  
Somme ijij<sup>ii</sup>.

Pd. 26<sup>th</sup> of Octob. 1615.

*Disbursed for Mrs. Frauncis and her Sisters.*

Viz. Delivered to Mr<sup>is</sup>. Heard by the Ladie Frauncis her direction, to be  
payd to one who teacheth Mr<sup>is</sup>. Frauncis and her sisters to singe ; for 6 }  
moneths, viz. from the 1<sup>st</sup> of May, 1615, to the third of November, 1615, }  
at 40<sup>o</sup> the month }  
Somme xij<sup>ii</sup>.

Delivered more by the Lady Frauncis direction to one to teach them to }  
daunce, for a month endinge the 13<sup>th</sup> of Novemb. 1615. }  
Somme total xvii<sup>ii</sup>

Pd.

*Disbursed for Mrs. Frauncis Egerton.*

Viz. to Mr. Newport for teachinge her to play on the lute for 7 moneths, }  
viz. from the 1<sup>st</sup> of May, 1615, to the 13<sup>th</sup> of Novemb. 1615, at 20<sup>o</sup> the }  
month }  
Somme, vij<sup>ii</sup>

Pd.

*Disbursed by your Lop.'s direction.*

Viz. 10<sup>th</sup> of August, 1615, for a little jewell sent by Mr. Panton to Mr<sup>is</sup> }  
Cecilia at the Bathe }  
vij<sup>ii</sup>

31<sup>st</sup> of August, 1615, for two troncks and a little coffer covered with leather }  
for your Lp to put wrytings in }  
xvj<sup>ii</sup>

19<sup>th</sup> of Octob. 1615, for a little jewell sent by Mr. Sutton to Mr<sup>is</sup> Cecilia at }  
the Bathe }  
v<sup>4</sup>

Somme total, xxvij<sup>ii</sup>.

Pd.

*Disbursed for Mrs. Bouth.*

Viz. to Mr. Newport for teachinge her to play on the lute for vij moneths, }  
viz from the 24<sup>th</sup> of Aprill, 1615, to the 6<sup>th</sup> of Novem. 1615, at 20<sup>o</sup> the }  
month }  
vij<sup>ii</sup>

6<sup>th</sup> of May, 1615.

For a payre of hose for Mr<sup>is</sup>. Bouth, sent her to Ashridge }  
iii<sup>ii</sup> iii<sup>ii</sup>

For three thousand of pins sent thither also }  
ij<sup>ii</sup>

For a payre of shooes sent also thither }  
ij<sup>ii</sup>

The vij<sup>th</sup> of August, 1615.

At the Christeninge of M<sup>r</sup>. Magdalen Egerton, and duringe the tyme of  
the Ladye Frauncis lyinge then in chyld bed, —

For 3 gallons and 3 quarters of Epcriste, at vj<sup>d</sup> per galone      xxij<sup>l</sup> iiij<sup>d</sup>

For 3 quarters of Hepocrist      iiij<sup>l</sup> vj<sup>d</sup>

For the Porter      iiij<sup>l</sup> "

[N.B. A banquet was given on the occasion, which seems to have cost 20*l.* 8*s.*,  
and all the items of which are furnished in the family accounts.]

[Accounts relating to Lord Ellesmere]:

" Bought of Thomas Huxley,  
the 2<sup>d</sup> of Novemb. 1616.

xij<sup>l</sup> yds. qarter rich crimson pile, and  $\frac{1}{2}$  velvet, at xxvij<sup>l</sup>      xvij<sup>l</sup> xvij<sup>l</sup> ix<sup>d</sup>  
xxj<sup>l</sup> yds. qarter rich crimson full velvet, at xxx<sup>l</sup>      xxxij<sup>l</sup> xvij<sup>l</sup> vj<sup>d</sup>  
xv ells of whit taffety, att xij<sup>l</sup> iiij<sup>d</sup>      x<sup>l</sup> 0<sup>s.</sup> 0<sup>d</sup>

Somme is lix<sup>l</sup> xv<sup>s.</sup> iiij<sup>d</sup>.

The 4<sup>th</sup> of November, 1616.

Rec. the same daye by me, John Hiccocks, of Mr. Edward Tomason the  
somme of thirtie pounds, and is in full satisfaction for the farringe of my  
Lord Chancellor's robes      30*l.*

By me, John Hiccolx.

A note of such money which I have laide foethe for your Lopp. since the xij<sup>th</sup>  
daie of November last, as followeth: —

Imprimis for an ell of Holland to lyne your Honor's scarlett capps      iiij<sup>l</sup> iiij<sup>d</sup>

For scarlett for your Lp.'s stomaches      xx<sup>l</sup>

For furringe of it      xl<sup>l</sup>

For a yard and halfe of white riband      ix<sup>d</sup>

Geven to my Lo. Maior's officer      ij<sup>l</sup> vj<sup>d</sup>

For halfe an ounce of silke      xij<sup>d</sup>

For a quarter and three nailes of twoe piled velvet for your Ho. capps at  
xxij<sup>l</sup> the yard      x<sup>l</sup>

Paide to the shoemaker for your Ho. Bootes      xxx<sup>l</sup>

For a dozen and halfe of blacke riband, at vj<sup>d</sup> the dozen      x<sup>l</sup> vj<sup>d</sup>

For twoe pre of woolen socks      ij<sup>l</sup>

Somme is vij<sup>l</sup> 4<sup>s.</sup>

Received in full discharge of this bill the xxvij<sup>th</sup> of December, 1616, vj<sup>l</sup>.

EDWARD THOMASON."

## CHAPTER LI.

## LIFE OF LORD BACON FROM HIS BIRTH TILL HE BECAME A MEMBER OF THE HOUSE OF COMMONS.

IT will easily be believed that I enter with fear and trembling on the arduous undertaking of attempting to narrate the history, and to delineate the character, of

“The wisest, brightest, meanest of mankind.”

I must say, that I consider a life of Lord Bacon still a desideratum in English literature. He has often been eulogised and vituperated: there have been admirable expositions of his philosophy and criticisms on his writings; we have very lively sketches of some of his more striking actions; and we are dazzled by brilliant contrasts between his good and bad qualities, and between the vicissitudes of prosperous and adverse fortune which he experienced. But no writer has yet presented him to us familiarly and naturally, from boyhood to old age—shown us how his character was formed and developed—explained his motives and feelings at the different stages of his eventful career—or made us acquainted with him as if we had lived with him, and had actually seen him taught his alphabet by his mother—patted on the head by Queen Elizabeth—mocking the worshippers of Aristotle at Cambridge—catching the first glimpses of his great discoveries, and yet uncertain whether the light was from heaven—associating with the learned and the gay at the Court of France—devoting himself to Bracton and the Year Books in Grays’ Inn—throwing aside the musty folios of the law to write a moral essay, to make an experiment in natural philosophy, or to detect the fallacies which had hitherto obstructed the progress of useful truth—contented for a time with taking “all knowledge for his province”—roused from these speculations by the stings of vulgar ambition—plying all the arts of flattery to gain official advancement by royal and courtly favour—entering the House of Commons, and displaying powers of oratory of which he had been unconscious—being seduced by the love of popular applause, for a brief space becoming a patriot—making amends, by defending all the worst excesses of prerogative—publishing to the world lucubrations on morals which show the nicest perception of what is honourable and beautiful, as well as prudent, in the conduct of life—yet the son of a Lord Keeper, the nephew of the prime minister, a Queen’s counsel, with the first practice at the bar, arrested for debt, and languishing in a sponging-house—tired with vain solicitations to his own kindred for promotion, joining the party of their opponent, and, after experiencing the most generous kindness from the young and

chivalrous head of it, assisting to bring him to the scaffold, and to blacken his memory — seeking, by a mercenary marriage, to repair his broken fortunes — on the accession of a new Sovereign offering up the most servile adulation to a Pedant whom he utterly despised — infinitely gratified by being permitted to kneel down, with 300 others, to receive the honour of knighthood — truckling to a worthless favourite with the most slavish subserviency that he might be appointed a law-officer of the Crown — then giving the most admirable advice for the compilation and emendation of the laws of England, and helping to inflict torture on a poor parson whom he wished to hang as a traitor for writing an unpublished and unpreached sermon — attracting the notice of all Europe by his philosophical works, which established a new era in the mode of investigating the phenomena both of matter and mind — basely intriguing in the meanwhile for further promotion, and writing secret letters to his Sovereign to disparage his rivals — riding proudly between the Lord High Treasurer and Lord Privy Seal, preceded by his mace-bearer and purse-bearer, and followed by a long line of nobles and Judges, to be installed in the office of Lord High Chancellor — by-and-bye, settling with his servants the account of the bribes they had received for him — a little embarrassed by being obliged out of decency, the case being so clear, to decide against the party whose money he had pocketed, but stifling the misgivings of conscience by the splendour and flattery which he now commanded — struck to the earth by the discovery of his corruption — taking to his bed, and refusing sustenance — confessing the truth of the charges brought against him, and abjectly imploring mercy — nobly rallying from his disgrace, and engaging in new literary undertakings, which have added to the splendour of his name — still exhibiting a touch of his ancient vanity, and in the midst of pecuniary embarrassment refusing to “be stripped of his feathers” — inspired, nevertheless, with all his youthful zeal for science in conducting his last experiment of “stuffing a fowl with snow to preserve it,” which succeeded “excellently well,” but brought him to his grave, — and, as the closing act of a life so checkered, making his will, whereby, conscious of the shame he had incurred among his contemporaries, but impressed with a swelling conviction of what he had achieved for mankind, he bequeathed his “name and memory to men’s charitable speeches, to foreign nations, and the next ages.”

I am very far from presuming to think that I am about to supply the deficiencies of his former biographers. My plan and my space are limited ; and though it is not possible in writing the life of Bacon to forget that he was a philosopher and a fine writer, I must chiefly consider him as a lawyer and a statesman. But I am not without some advantages for the task — from my familiarity with the scenes through which he passed as an advocate, as a law officer of the Crown, as a Judge, as a member of either House of parliament, and as a supporter of legal reform. Others from greater leisure are better acquainted with his philosophy ; but I too have been a diligent student of all his

works, and while in his Letters, his Speeches, his Essays, and his Histories, I have tried to gain a knowledge of human affairs and of man as he is,—from daily and nightly perusal of his “Advancement of Learning,” his “De Augmentis Scientiarum,” and his “Novum Organum,” I have humbly striyen to initiate myself in the methods of observation and induction by which he has opened to our species a career of boundless improvement.

Francis Bacon was the youngest son of Sir Nicholas Bacon, Lord Keeper to Queen Elizabeth, by Ann Cooke, one of the daughters of Sir Anthony Cooke, tutor to King Edward VI. He was born at York House, in the Strand, on the 22d of January, 1561.\* Like several other extraordinary men, he is supposed to have inherited his genius from his mother†, and he certainly was indebted to her for the early culture of his mind, and the love of books for which during life he was distinguished. Young Francis was sickly, and unable to join in the rough sports suited for boys of robust constitution. The Lord Keeper was too much occupied with his official duties to be able to do more than kiss him, hear him occasionally recite a little piece he had learned by heart, and give him his blessing. But Lady Bacon, who was not only a tender mother but a woman of highly cultivated mind after the manner of her age, devoted herself assiduously to her youngest child, who, along with bodily weakness, exhibited from early infancy the dawning of extraordinary intellect. She and her sisters had received a regular classical education, and had kept up her familiarity with the poets, historians, and philosophers of antiquity. She was likewise well acquainted with modern languages, and with the theology and literature of her own times. She corresponded in Greek with Bishop Jewel respecting the then fashionable controversies, and she translated his *Apologia* from the Latin so correctly, that neither he nor Archbishop Parker could suggest a single alteration. She also translated admirably a volume of Sermons on “Fate and Free Will,” from the Italian of Bernardo Ochino.

Under her care, assisted by a domestic tutor, Francis continued till he reached his thirteenth year. He took most kindly to his book, and made extraordinary proficiency in the studies prescribed to him. His inquisitiveness and original turn of thinking were at the same time displayed. While still a mere child, he stole away from his playmates to a vault in St. James's Fields, for the purpose of investigating the cause of a singular echo which he had discovered there; and,

\* Some modern writers, who generally reckon by the new style, place his birth in January, 1560, which would mislead the general reader. See Mont. L. or B. p. 1.

† Anthony, the elder brother, not being by any means distinguished, the case of the Bacon family might be cited to illustrate the retort upon the late Earl of Buchan, who was eldest brother to Lord Erskine and the famous Henry Erskine, Dean of Faculty, but very unequal to them in abilities, and who observing boastfully, “We inherit all our genius from our mother,” was answered, “Yes, (and as the mother's fortune generally is) it seems to have been all settled on the younger children.”

when a little older, he amused himself with very ingenious speculations on the art of legerdemain, at present flourishing under the title of Mesmerism. He enjoyed at the same time the great advantage, on account of his father's station, and his being the nephew of the Prime Minister, of being early introduced into the highest and most intellectual society,—in which he displayed most extraordinary gravity of deportment, as well as readiness of wit. So much was Queen Elizabeth struck with his manner and his precocity, that she used to amuse herself in conversation with him, and to call him her “young Lord Keeper.” On one occasion he greatly pleased her by his answer to the common question put to children, *how old he was?* —“Exactly two years younger than your Majesty's happy reign.”\*

In his thirteenth year, he was sent to Trinity College, Cambridge, and put under the care of Whitgift, then Master of the College, afterwards Archbishop of Canterbury, and famous for his bigotry and intolerance as well as his love of learning. Here Bacon resided three years. We have rather vague accounts of his studies during this period, and we judge of his occupations chiefly from the result as testified in after life, and by his subsequent declarations respecting academical pursuits. It is said that he ran through the whole circle of the liberal arts as they were then taught, and planned that great intellectual revolution with which his name is inseparably connected. But all that is certain is, that at his departure he carried with him a profound contempt for the course of study pursued there. Had it been improved to its present pitch, and the tripos had been established, in all probability he would still have selected his own course of study. Academical honours are exceedingly to be valued as a proof of industry and ability; but the very first spirits have not affected them, and men of original genius, such as Swift, Adam Smith, and Gibbon, could hardly have submitted to the course of mechanical discipline which is indispensable to be thoroughly drilled in the knowledge of what others have done, written, and thought. If he had devoted his residence at the University to the drudgery necessary to take a high degree, and had actually been Senior Wrangler or Senior Medallist, or both, and a Fellow of Trinity to boot, he might afterwards have become Lord High Chancellor, but he never would have written his *Essays*, or the *“Novum Organum.”* He must be considered as expressing his opinion of the Cambridge residents of his day, when he speaks of “men of sharp and strong wits and small variety of reading, their wits being shut up in the cells of a few authors, chiefly Aristotle, their dictator, as their persons were shut up in the cells of monasteries and colleges, and who knowing little history either of nature or time, did spin cobwebs of learning admirable for the fineness of thread and work, but of

\* We owe this and the most authentic anecdotes respecting his early years to Rawley. “Ille autem tanta gravitate et judicii maturitate, supra statim se expediti valebat, ut Regina eum ‘Dominum Custodem Sigilli minorem’ appellare solitus. Interroganti Quot annos natus esset? ingeniose etiam puer adhuc, respondit Se regimini ejus felici duobus annis juniores fuisse.” p. 2. Ed. 1819.

no substance or profit.”\* He paid due homage to the gigantie intellect of the Dictator ; but he ridiculed the unfruitfulness of his method, which he described as strong for disputations and contentions, but barren for the production of works for the benefit and use of man, the just object for acquiring knowledge, and the only value of knowledge when acquired.† He left Cambridge without taking a degree, and with the fixed conviction that the system of academical education in England (which has remained substantially the same since his time) was radically vicious.

We now come to a passage of his life which has hitherto received too little attention in tracing the formation of his mind and character. Allusion is made by his biographers to his residence in France, but generally in such terms as might be used in describing a trip to Paris by a modern student of law during the long vacation, with the advantage of an introduction to the English minister there from the Secretary of State for foreign affairs. In reality, Bacon spent three whole years in France—the most valuable of his life—and his subsequent literary eminence may be traced to his long sojourn in a foreign country during the age of preparatory studies—almost as much as that of Hume or Gibbon. He first resided at Paris under the care of his father’s friend, Sir Amyas Paulet, the English minister at the French Court, where “he sought that which is most of all profitable in travel,—acquaintance with the secretaries and employed men of ambassadors, and so in travelling in one country he sucked the experience of many.”‡ It is said that the stripling so far won the confidence of the wary diplomatist, that he was employed on a secret mission to the Queen, which having performed with great approbation, he returned back into France ; but the nature of this negotiation is not hinted at, and the probability is, that, going on a short visit to his family, he was merely employed to carry despatches, for the purpose of facilitating his journey through the provinces, which were then rather in a disturbed state.§

On the recall of Sir Amyas Paulet, Bacon made a tour through

\* *Advancement of Learning.*

† Says Rawley, his chaplain and biographer, “ Whilst he was commorant at the University about sixteen years of age (as his Lordship hath been pleased to impart unto myself), he first fell into dislike of the philosophy of Aristotle. Not for the worthlessness of the author, to whom he would ever ascribe all high attributes, but for the unfruitfulness of the way — being a philosophy (as his Lordship used to say) only strong for disputations, but barren of the production of works for the life of man. In which mind he continued to his dying day.”

‡ *Essay of Travel.*

§ On his return, Sir Amyas thus writes to the Lord Keeper, “ I rejoice much to see that your son, my companion, hath by the grace of God passed the brunt and peril of his journey ; whereof I am the more glad because in the beginning of these last troubles it pleased your Lordship to refer his continuance with me to my consideration. I thank God these dangers are past, and your son is safe, sound, and in good health, and worthy of your fatherly favour. Sept. 1577.”

the southern and western parts of France,\* and then fixed himself for steady application at Poitiers. He now wrote his "Notes on the State of Europe," which display very minute accuracy of statement, without attempting any profundity of observation. Probably with a view of being engaged in diplomacy, he studied with great interest the art of writing in cipher, and he invented a method so ingenious, that many years after he thought it deserving of a place in the "De Augmentis." While thinking that he should spend his life in such speculations and pursuits, he heard of the sudden death of his father, and he was reserved for a very different destiny.

He instantly returned to England, and had the mortification to find that he was left with a patrimony so slender, that it was wholly insufficient for his support without a profession or an office. "He had to think how to live, instead of living only to think." Sir Nicholas had amply provided for his other children, and had appropriated a sum of money to buy an estate for Francis, but had been suddenly carried off without accomplishing his purpose, and Francis had only a rateable proportion with his four brothers of the fund which was to have been applied to his exclusive benefit.

He made a strenuous effort to avoid the necessity of taking to the study of the law,—the only resource which remained to him if he could not procure some political appointment. He sued to Burghley directly, and indirectly through Lady Burghley, his aunt, in a strain almost servile, that some employment should be given to him. Considering his personal merit and qualifications, and, still more, considering his favour with the Queen and his connection with her chief minister, it seems wonderful that he should have failed,—if we did not remember that the Lord Treasurer then wished to introduce into public life his favourite son, Robert Cecil, a very promising youth, but inferior in talents and accomplishments to his cousin, Francis Bacon, and that "in the time of the Cecils, father and son, able men were, by design and of purpose, suppressed."<sup>†</sup> The Cecils not only refused to interest themselves for their kinsman, but now, and for many years after,—that he might receive no effectual assistance from others, they spread reports that he was a vain speculator, and totally unfit for real business.

He was thus driven most reluctantly to embrace the law as a means of livelihood, and in 1580, in his 20th year, he was entered of Gray's Inn, of which Society his father had been long a member. He lived in chambers No. 1. Gray's Inn Square, which remain in the same state as when he occupied them, and are still visited by those who worship his memory. There can be no doubt that he now diligently and doggedly sat

\* His *Essay of Travel* shows him to have been most familiar with touring, and there the foreign traveller will find excellent advice, even to furnishing himself with a copy of "Murray's Handbook." "Let him carry with him also some card or book describing the country wherein he travelleth, which will be a good key to his inquiry."

† Bacon's letter to Buckingham.

down to the study of his profession, and that he made very great progress in it—although he laboured under the effect of the envious disposition of mankind, who are inclined to believe that a man of general accomplishments cannot possibly be a lawyer ; and, *e converso*, if a man has shown himself beyond all controversy to be deeply embued with law, that he is a mere lawyer without any other accomplishment. A competent judge who peruses Francis Bacon's legal treatises, and studies his forensic speeches, must be convinced that these were not the mere result of laboriously getting up a title of law *pro re natâ*, but that his mind was thoroughly familiar with the principles of jurisprudence, and that he had made himself complete master of the common law of England,—while there might be serjeants and apprentices who had never strayed from Chancery Lane to the “Solar Walk or Milky Way,” better versed in the technicalities of pleading and the practice of the Courts.\* He must sedulously have attended the “readings” and “mootings” of his Inn, and abstracted many days and nights from his literary and philosophical pursuits to the perusal of Littleton and Plowden.

His industry is the more commendable, as he had other powerful temptations to withstand. From his lively wit, from his having been in the best society at home, and from his travels abroad, he was a most delightful companion, and his society was universally coveted ; yet he courteously resisted these allurements, and, without losing popularity, remained master of his time. On high-days and holidays he assisted with great glee in all the festivities of the Inn ; and at the request of the Benchers he laid out walks in the garden, and planted trees, some of which, on a spot which got the name of “Lord Bacon's mount,” very recently remained. He likewise found it impossible entirely to abstract his mind from the philosophical speculations which so early occupied it, and he published a little sketch of his system under the somewhat pompous title of “The Greatest Birth of Time.” But this, like Hume's “System of Human Nature,” seems to have fallen *still-born from the press*; no copy of it is preserved, and we should hardly know of its existence but from the notice of it in a letter, which after his fall from power he wrote to Father Fulgentio : “Evidem memini me quadraginta adhuc annis juvenile opuscolum circa has res confecisse, quod magna prorsus fiducia et magnifico titulo TEMPORIS PARTUM MAXIMUM inscripsi.”

In 1586 he was called to the outer bar, but I apprehend, according to the rules then prevailing, was not entitled to practise till he had

\* “ The Temple late two brother serjeants saw  
Who deem'd each other oracles of law ;  
Each had a gravity would make you split,  
And shook his head at MURRAY as a wit.”

Even when I entered the profession this disposition continued ; but the world now places the friend of Pope high above such narrow-minded judges as Kenyon, who sneered at “the equitable doctrines of Lord Mansfield.”

got another step which was "coming within bars."<sup>\*</sup> To this he was not entitled by his standing, but he might have obtained it by the recommendation of his uncle, the Lord Treasurer. To an application for his interference, the old Lord, now peevish from age and gout, seems to have returned a very churlish answer, taking the opportunity to read Francis a sharp lecture on his "arrogancy and overweening." These bad qualities the young man earnestly disclaimed, but he submissively promised to profit by such good advice, "and so wishing unto his Lordship all honour, and to himself continuance of his Lordship's good opinion, with mind and means to deserve it, he humbly took his leave."<sup>†</sup>

In a short time, however, he was admitted an inner barrister, and immediately after he was elected a Becher of the Society. So great a favourite was he with his house, that in two years more he was made Lent Reader, an office of much dignity, which gave him an opportunity of publicly exhibiting his learning, acuteness, and eloquence. He now acquired such reputation in his profession that the Queen, for the benefit of his assistance in her state prosecutions and revenue cases, appointed him her "Counsel extraordinary." This was the first appointment of the sort, the counsel for the Crown hitherto having been only the royal Serjeants, who had the first rank, and the Attorney and Solicitor General, with the Attorney of the Duchy of Lancaster, and the Attorney of the Court of Augmentations. The body of Serjeants came next in point of precedence, and then inner and outer barristers or apprentices, according to their "ancienty" or standing. Bacon was exceedingly delighted with this glimpse of Court favour, but he derived little solid advantage from it; for he was allowed no salary, and he had only a few stray briefs, with small fees, on occasions when it was thought that he might be of service to the Crown. The Queen frequently admitted him to her presence, and conversed with him not only about matters of law, but points of general learning and affairs of state, finding much satisfaction from the information and illustrations he communicated to her. Nevertheless, he could not remove from her mind the impressions made upon her by the representation of his cousin, Sir Robert Cecil, that he was "a speculative man, indulging himself in philosophical reveries, and calculated more to perplex than to promote public business."

Bacon's higher aspirations prevented him from taking cordially to the profession of the law, and he still longed for leisure to be devoted to literature and science. With this view he continued to solicit for

\* See Or. Jur. 159.

† Letter of F. Bacon to Burleigh, May 6, 1586. Some writers not unnaturally suppose that this was an application for a *silk gown*, and that Bacon having got into great practice *in stuff*, now wished to be "called within the bar," in the modern sense of the phrase,—whereas, in reality, his ambition then was only to become "an inner barrister" before his time, that he might be entitled to begin practice in Court. — See Macaulay's *Essays*, ii. 300.

some place which would enable him to retire from the bar. A few extracts from his letters will best show the state of his feelings at this period of his life. “I wax now somewhat ancient, one-and-thirty years is a great deal of sand in the hour-glass. My health, I thank God, I find confirmed, and I do not fear that action shall impair it; because I account my ordinary course of study and meditation to be more painful than most parts of action are. . . . Again, the meanness of my estate doth somewhat move me; for though I cannot accuse myself that I am either prodigal or slothful, yet my health is not to spend nor my course to get. Lastly, I confess that I have as vast contemplative ends as I have moderate civil ends, for I have taken all knowledge to be my province, and if I could purge it of two sorts of rovers, whereof the one with frivolous disputation, confutations and verbosities; the other with blind experiments and auricular traditions and impostures, hath committed so many spoils,—I hope I should bring in industrious observations, grounded conclusions, and profitable inventions and discoveries. . . . If your Lordship will not carry me on, I will not do as Anaxagoras did, who reduced himself with contemplation unto voluntary poverty: but this I will do, I will sell the inheritance that I have, and purchase some lease of quick revenue, or some office of gain that shall be executed by deputy, and so give over all care of service, and become some sorry book-maker or a true pioneer in that mine of truth which lies so deep.”\* “This last request I find it more necessary for me to make, because though I am glad of her Majesty’s favour that I may with more ease practise the law, which percase I may use now and then for my countenance, yet, to speak plainly, though perhaps vainly, I do not think that the ordinary practice of the law, not serving the Queen in place, will be admitted for a good account of the poor talent that God hath given me, so as I make reckoning I shall reap no great benefit to myself in that course.”† Such sentiments must have appeared very foolish to the crusty Lord Treasurer, who thought all qualities and occupations were vain and idle which did not lead directly to power and riches, and pronounced 100*l.* too extravagant a gratuity to be given to the author of the *FAERY QUEEN*, which he derisively termed “an old song.” To stop the mouth of his impertunate nephew, the Lord Treasurer procured for him the reversion of the registrarship of the Star Chamber, worth about 1600*l.* a year; but the place not falling into possession till after the lapse of twenty years, the impatient Francis said, “it was like another man’s fair ground battening upon his house, which might mend his prospect, but did not fill his barns.”

Although he accomplished infinitely higher objects, he never appears to have had much practice at the bar. The profession of the law in England seems at all times to have required the undivided affections of those who have the greatest success in it, and has not, as in France and in Scotland, easily admitted a rivalry with more liberal pursuits. Bacon

\* Bacon to Burghley, 1591.

† Ibid. 1594.

when engaged in a *cause célèbre*,—the Queen and the Court coming to hear the arguments, or taking a lively interest in the result,—no doubt exerted himself to the utmost, and excited applause by his display of learning and eloquence: but on ordinary occasions, when he found himself in an empty Court, and before an irritable or drowsy Judge, he must have been unable to conceal his disgust,—and eager to get home that he might finish an essay or expose some fallacy by which past ages had been misled,—if he stood up for his client, believing him to be in the right, as long as he felt there was a chance of succeeding for him,—we may well believe that he showed little energy in a doubtful cause, and that he was careless about softening defeat by any display of zeal or sympathy. Accordingly, that he was no favourite with the attorneys is clear from his own statements of his progress, from the abundant leisure which he still enjoyed, and from the poverty in which (without any extravagance) he continued to be involved.\*

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## CHAPTER LII.

### CONTINUATION OF LIFE OF LORD BACON TILL THE FALL OF THE EARL OF ESSEX.

We have now presented to us a sudden turn of his fortune, which rather retarded his promotion, but which from the unsuspected faculty he exhibited, and the applause he received, gave a new stimulus to his ambition. There was infused into him at this juncture a taste for public life which ever after combated, without overcoming his passion for philosophy.

After a government carried on for some years by prerogative alone, a parliament met on the 19th of February, 1593, and Francis Bacon took his seat as a representative for the county of Middlesex. In a discussion which arose a few days after upon the topics dwelt upon by the Lord Keeper, in explaining the causes of summoning the parliament (which we may consider “the debate on the address”), he made his maiden speech;—and I rejoice to find that it was on “Law Reform.” We have but scanty remains of his oratory in the House of Commons, but enough to account for the admiration he excited, and the influence he acquired. On this occasion he observed, “The cause of assembling all parliaments hath been hitherto for laws or monies; the one being the sinews of peace, the other of war: to one I am not privy, but the other I should know. I did take great contentment in her Majesty’s speech, delivered by the Lord Keeper, how that it was a thing not to be done suddenly, nor scarce a year

\* See his Letters. Works, vol. v.

would suffice to purge the statute book, the volumes of law being so many in number that neither common people can half practise them, nor lawyers sufficiently understand them. The Romans appointed ten men who were to collect or recall all former laws, and to set forth those twelve tables so much of all men commended. The Athenians likewise appointed six for that purpose. And Louis IX., King of France, did the like in reforming his laws." — We must try to conceive to ourselves the instances he gave of absurd penal laws remaining unrepealed, and the advantages he pointed out from digesting and codifying.

We know that he was ever after the most favoured speaker in that assembly ; and, for this reason, when he was made Attorney General, and, according to all precedent, he was disqualified to act as a representative of the people, being summoned as an assistant to the Lords,—it was unanimously resolved that he should retain his seat in the Lower House. "There happened in my time," says Ben Jonson, "one noble speaker who was full of gravity in his speaking. His language, where he could spare or pass by a jest, was nobly censorious. No man ever spoke more neatly, more pressly, more weightily, or suffered less emptiness, less idleness, in what he uttered. No member of his speech but consisted of his own graces. His hearers could not cough or look aside from him without loss. He commanded where he spoke, and had his Judges angry and pleased at his devotion. No man had their affections more in his power. The fear of every man who heard him was lest he should make an end."\*

So intoxicated was Bacon with the success of his first effort, that in the debate on the 7th of March, on the subsidy, he delivered a flaming oration against the Court, running great risk of being sent to the Tower and punished by the Star Chamber for his presumption. "To the subsidy demanded he propounded three questions, which he desired might be answered : the first, impossibility or difficulty ; the second, danger and discontentment ; and, thirdly, a better manner of supply. For impossibility, the poor men's rent is such as they are not able to yield it. The gentlemen must sell their plate, and farmers their brass pots, ere this will be paid ; and as for us, we are here to search the wounds of the realm, and not to skin them over. We shall breed discontentment in paying these subsidies, and endanger her Majesty's safety, which must consist more in the love of the people than in their wealth. This being granted, other princes hereafter will look for the like, so that we shall put an evil precedent on

\* It has been supposed from the use of the word "Judges," that Ben Jonson had never heard Bacon speak in parliament ; but I apprehend that he refers to those who heard and formed a judgment of Bacon's eloquence without wearing black coif's and scarlet robes.

"A perfect Junex will read each piece of wit  
With the same spirit that its author writ." — Pope.

See Macaulay's *Essays*, vol. ii. 302.

ourselves and our posterity."\* He concluded with a motion, which was carried, for "a committee to deliberate and consult in what proportion they might now relieve her Majesty with subsidies in respect of those many and great enemies against whose power and malice she was to provide."

The courtiers were thrown into a state of horror and amazement. The Queen, in the present temper of the House, and with news of the approach of a Spanish armament, deemed it prudent to take no public notice of this outrage; but she was deeply incensed, and desired it to be intimated to the delinquent, by the Lord Treasurer and the Lord Keeper, that he must never more look to her for favour or promotion. An eloquent eulogist says, "he heard them with the calmness of a philosopher;"† but his answers show that he was struck with repentance and remorse, and that, in the hope of obtaining pardon, he plainly intimated that he should never repeat the offence.‡ In all time coming, he never sought popularity more than might well stand with his interest at Court.

The following year his compunction for his opposition to the [APRIL 10, 1594.] subsidy was aggravated by the opportunity which occurred of obtaining professional honours. Egerton, the Attorney General, was made Master of the Rolls. Some of Bacon's friends were sanguine enough to think that *persaltum* he ought to have been appointed to succeed him§; but Sir Edward

\* D'Ewes' Journal, 1593.

† Montagu, who in his very valuable edition of Bacon rather idolizes his hero.

‡ In his letter to Burleigh he tries to explain away what he had said, as if only actuated by good wishes for the Queen's service; and thus concludes, "I most humbly pray your Lordship first to continue me in your own good opinion, and then to perform the part of an honourable and good friend towards your poor servant and ally, in drawing her Majesty to accept of the sincerity and simplicity of my zeal, and to hold me in her Majesty's favour, which to me is dearer than my life."

He must be supposed to have been sobbing when he thus addresses the flinty-hearted Puckering, — " yet notwithstanding (to speak vainly as in grief) it may be her Majesty has discouraged as good a heart as ever looked towards her service, and as void of self-love. And so, in more grief than I can well express, and much more than I can well dissemble, I leave your Lordship, being as ever your Lordship's entirely devoted," &c.

§ The following dialogue is said to have passed between the Earl of Essex and Sir Robert Cecil, as they were about this time travelling together in the same coach: — *Cecil*. " My Lord, the Queen has determined to appoint an Attorney General without more delay. I pray, my Lord, let me know whom you will favour?" — *Essex*. " I wonder at your question. You cannot but know that resolutely against all the world I stand for your cousin, Francis Bacon." — *Cecil*. " I wonder your Lordship should spend your strength on so unlikely a matter. Can you name one precedent of so raw a youth promoted to so great a place?" — *Essex*. " I have made no search for precedents of young men who have filled the office of Attorney General; but I could name to you, Sir Robert, a man younger than Francis, less learned, and equally inexperienced, who is suing and striving with all his might for an office of far greater weight." — *Cecil*. " I hope my abilities, such as they are, may be equal to the place of Secretary, and my father's long

Coke, who had served as Solicitor General for two years, was promoted almost as a matter of course,—and the great struggle arose respecting the office of Solicitor. To this Bacon had the strongest claim, from the respect entertained for his father's memory,—from his relationship to the Prime Minister,—his high accomplishments,—from his eminence at the bar,—from his success in parliament,—and from the services he had rendered as Queen's Counsel extraordinary. He had two obstacles to surmount—his unlucky speech, and the jealousy of the Cecils. In more recent times his chance of promotion would have been increased by an occasional display of independence, showing how formidable he might be in regular opposition; but in Elizabeth's reign the system of retaining a wavering adherent, or gaining over a formidable antagonist by appointment to office had not commenced, and constant subserviency to the Court was considered indispensable in all aspirants to Court favour. Burghley, and his hopeful son Robert, now coming forward as Secretary of State, pretended to support their kinsman, but in reality were afraid that, with favourable opportunities, he would disconcert their deep-laid scheme of making the premiership hereditary in the house of Cecil.

Francis himself considered this the crisis of his fate, and resorted to means of gaining his object which would be spurned at by a modern candidate for the office, who does not acknowledge that he expects it, or interfere in any way regarding the appointment till he receives a letter from the Lord Chancellor or the First Lord of the Treasury asking him to accept it.

His application to his uncle was excusable, although the manner of it was rather abject. “I have ever had your Lordship in singular admiration; whose happy ability her Majesty hath so long used to her great honour and your's. Besides, that amendment of state or countenance which I have received hath been from your Lordship. And, therefore, if your Lordship shall stand a good friend to your poor ally, you shall but *tueri opus* which you have begun. And your Lordship shall bestow your benefit upon one that hath more sense of obligation than of self-love. Your Lordship's in all humbleness to be commanded.”

services may deserve such a mark of gratitude from the Queen. But although her Majesty can hardly stomach one so inexperienced being made her Attorney, if he would be contented with the Solicitor's place, it might be of easier digestion to her.” — *Essex*. “Digest me no digestions. The attorneyship for Francis is that I must have, and in that I will spend all my power, might, authority and amity, and with tooth and nail procure the same for him against whomsoever.” See Nare's *Life of Burleigh*, vol. iii. p. 436. But although there may be some foundation for this conversation, it cannot be accurately reported; as the office of Attorney General at this time was not vacant for a single day,—Egerton having been appointed Master of the Rolls, and Coke appointed to succeed him as Attorney General on the 10th of April, 1594 (Dugd. Chr. See Pat. 36 Eliz.) — and there is an extreme improbability in supposing that any of the Cecils would speak so openly against Francis Bacon, whom they were pretending to support, although they secretly sought to depress him.

The answer, under the disguise of bluntness, was artful and treacherous. "Nephew,—I have no leisure to write much ; but, for answer, I have attempted to place you ; but her Majesty hath required the Lord Keeper to give to her the names of divers lawyers to be preferred, wherewith he made me acquainted, and I did name you as a meet man, whom his Lordship allowed, in way of friendship for your father's sake ; but he made scruple to equal you with certain whom he named —as Brograve and Branthwayt, whom he specially commendeth. But I will continue the remembrance of you to her Majesty, and implore my Lord of Essex's help. Your loving uncle, W. BURGHLEY."

Francis again, to no purpose, addressed him, saying, "If her Majesty thinketh that she shall make an adventure in using one that is rather a man of study than of practice and experience, surely I may remember to have heard that my father was made Solicitor of the Augmentations, a Court of much business, when he had never practised, and was but twenty-seven years old."

There can be no doubt that, on such an appointment, the Queen would have been guided by the sincere advice of him who had induced her to make Sir Nicholas Lord Keeper at the commencement of her reign ; Puckering, on whom he threw the blame, had likewise been promoted by him, and was under his control ; "Essex's help," he was aware, "was rather a hindrance."

The anxious aspirant wrote repeatedly to Lord Keeper Puckering, remonstrating with him, and trying to soften him. "If your Lordship consider my nature, my course, my friends, my opinion with her Majesty if this eclipse of her favour were past\*, I hope you will think I am no unlikely piece of wood to shape you a true servant of."† "I understand of some business like enough to detain the Queen to-morrow, which maketh me earnestly to pray your good Lordship, as one that I have found to take my fortune to heart, to take some time to remember her Majesty of a solicitor.‡ If it please your Lordship but to call to mind from whom I am descended, and by whom, next to God, her Majesty and your own virtue your Lordship is ascended, I know you will have a compunction of mind to do me any wrong ; and therefore, good my Lord, where your Lordship favoureth others before me, do not lay the separation of your love and favour upon myself."

In the reign of Elizabeth, there was always a sort of "Opposition," which did not seek to form a party against Burleigh in parliament or in the country,—which did not differ from him in religion,—had not any adverse system of policy to pursue, either at home or abroad,—but which engrossed the greatest share of the Queen's personal favour and struggled for an equal share of the royal patronage.

The reigning favourite now was the youthful Earl of Essex§, whose bad qualities were redeemed by chivalrous bravery, romantic generosity, and singular warmth in his friendships. Mistrusting the kindness and

\* The subsidy speech.

† Aug. 19, 1594.

‡ April 5, 1594.

§ Bacon.

good faith of his natural allies, Francis now cultivated him with great assiduity; and the soldier, disposed to admiration of all that is great and beautiful, was fascinated by the genius and accomplishments of the orator and philosopher. A close intimacy was formed between them, which, on the patron's side, amounted to pure and fervent friendship, but which ended most mournfully and discreditably for the party patronised.

The letters written by Essex about this time, demonstrate the intense zeal with which he tried to use his influence with the Queen for the promotion of his friend; and are curious, as showing the terms on which he lived with his royal mistress, who, as tender as ever in her affections, had become more chary of her reputation and did not continue to raise such suspicions in her Court as in the times of Leicester and Hatton. “I found the Queen so wayward, as I thought it not fit time to deal with her in any sort, especially since her choler grew towards myself, which I have well satisfied this day, and will take the first opportunity I can to move your suit.”—“I have now spoken with the Queen, and I see no stay from obtaining a full resolution of what we desire.”—“I went yesterday to the Queen, through the galleries, in the morning, afternoon, and at night. I had long speech to her of you, wherein I urged both the point of your extraordinary sufficiency proved to me, not only by your last argument, but by the opinions of all men I spake withal, and the point of mine own satisfaction, which I protested should be exceeding great, if for all her unkindness and discomforts past, she should do this one thing for my sake. She did acknowledge you had a good wit, and an excellent gift of speech, and much other good learning. *But in the law, she rather thought you could make show to the uttermost of your knowledge, than that you were deep.* I added, her Majesty had made me suffer, and give way in many things else, which all I should bear, not only with patience, but with great contentment, if she would but grant my humble suit in this one; and for the pretence of the approbation given you upon partiality, that all the world, lawyers, Judges, and all, could not be partial to you; for somewhat you were crossed for their own interest, and some for their friends; but yet all did yield to your merit.”—“I have received your letter, and since I have had opportunity to deal freely with the Queen. I have dealt confidently with her, as a matter wherein I did more labour to overcome her delays than I did fear her denial. I told her how much you were thrown down with the correction she had already given you, that she might in that point hold herself already satisfied. And because I found that Tanfield had been most propounded to her, I did most disable him. I find the Queen very reserved, staying herself upon giving any kind of hope, yet not passionate against you till I grew passionate for you. I urged her, that though she could not signify her mind to others, I might have a secret promise wherein I should receive great comfort, as in the contrary great unkindness. She said she was neither persuaded nor would hear of it till Easter, when she might advise with

her counsel, who were now all absent ; and, therefore, in passion, bid me go to bed if I would talk of nothing else. Wherefore, in passion, I went away, saying, while I was with her, I could not but solicit for the cause and the man I so much affected ; and, therefore, I would retire myself till I might be more graciously heard, and so we parted. To-morrow I will go hence of purpose ; and on Thursday, I will write an expostulating letter to her. That night, or upon Friday morning, I will be here again, and follow on the same course."

Bacon feeling "the misery 'tis in suing long to bide," took a bold step, and wrote a letter to the Queen herself, which is most highly creditable to her character, — at least as estimated by him, — for from his language to the Lord Treasurer and the Lord Keeper, we need not doubt that he would have addressed her in the most fulsome and slave-like strain, if he had not thought that he was likely to succeed better by pretending independence, and avowing a consciousness of his own worth :

" Madam, — Remembering that your Majesty has been gracious to me, both in countenancing me and conferring upon me the reversion of a good place, and perceiving that your Majesty had taken some displeasure towards me, both these were arguments to move me to offer unto your Majesty my service, to the end to have means to deserve your favour, and to repair my error. Upon this ground I affected myself to no great matter, but only a place of my profession, such as I do see divers younger in proceeding to myself and men of no great note do without blame aspire unto. But if any of my friends do press this matter, I do assure your Majesty my spirit is not with them.\* It sufficeth me that I have let your Majesty know that I am ready to do that for the service which I never would do for mine own gain. And if your Majesty like others better, I shall, with the Lacedemonian, be glad that there is such choice of abler men than myself. Your Majesty's favour indeed, and access to your royal person, I did ever, encouraged by your own speeches, seek and desire, and I would be very glad to be reintegrate in that. But I will not wrong mine own good mind so much as to stand upon that now, when your Majesty may conceive I do it but to make my profit of it. But my mind turneth upon other wheels than those of profit. The conclusion shall be, that I wish your Majesty served answerable to yourself. *Principis est virtus maxima nosse suos.* Thus I most humbly crave pardon of my boldness and plainness. God preserve your Majesty!"

According to the fashion of the times, he accompanied this letter with the present of a jewel.† His hopes were excited by a note he

\* This pretended indifference in our friend Francis is not a little amusing — considering that he had been compassing heaven and earth — not altogether abstaining from the *black art* — to effect his object.

† This was an extraordinary gratuity. Bacon had long been in the habit, like other courtiers, of presenting a yearly present to Elizabeth at new year's tide. Several of his letters accompanying them are preserved. I will give a specimen :

“ Most Excellent Sovereign Mistress,

“ The only new year's gift which I can give your Majesty is that which God

received a few days after from his friend Foulke Greville, who was at Court when the offering arrived, and talked to her Majesty on the subject. "It pleased her withal to tell of the jewel you offered her by Mr. Vice-chamberlain which she had refused, yet with exceeding praise. But either I deceive myself, or she was resolved to take it; and the conclusion was very kind and gracious. One hundred pounds to fifty you shall be her Solicitor."

Still the Queen could not forget the "*subsidy speech*," or was secretly influenced by Burleigh, or was resolved to show that Essex was not her master,—and no appointment took place till the month of November, 1595. Bacon's patience had become entirely exhausted. He thus writes to Foulke Greville:—"What though the Master of the Rolls, and my Lord of Essex, and yourself, and others, think my case without doubt, yet in the mean time I have a hard condition to stand, so that whatever service I do to her Majesty, it shall be thought but to be *servitium viscatum*, lime twigs and fetches to place myself; and so I shall have envy, not thanks. This is a course to quench all good spirits, and to corrupt every man's nature, which will, I fear, much hurt her Majesty's service in the end. I have been like a piece of stuff beposken in the shop; and if her Majesty will not take me, it may be the selling by parcels will be more gainful. For to be, as I told you, like a child following a bird, which when he is nearest flieth away and lighteth a little before, and then the child after it again, and so *in infinitum*,—I am weary of it, as also of wearying my good friends."

He was at last thrown into a state of mind still more painful than suspense, by the overwhelming intelligence that a patent had passed the Great Seal, appointing Mr. Serjeant Fleming Solicitor General to her Majesty.\* He was at first wholly overpowered by the blow, and then he resolved for ever to retire from public life, and travel in foreign countries,—a step which he thus defended, "Upon her Majesty's rejecting me with such circumstances, though my heart might be good, yet mine eyes would be sore, that I should take no pleasure to look upon my friends; for that I was not an impudent man that could

hath given to me,—a mind in all humbleness to wait upon your commandments and business; wherein I would to God that I were hooded, that I saw less, or that I could perform more: for now I am like a hawk that bates when I see occasion of service, but cannot fly because I am tied to another's fist. But meanwhile I continue my presumption of making to your Majesty my poor oblation of a garment—*as unworthy the wearing as his service that sends it*, but the approach to your excellent person may give worth to both, which is all the happiness I aspire unto." This garment was "one petticoat of white satin embroidered all over like feathers and billets, with three broad borders fair embroidered with snakes and fruitage, *emblems of Wisdom and Beauty*." In each year an exact inventory of new-year's gifts was taken and signed by the Queen, and attested by the proper officers. The donors vary in rank from the Lord Keeper Egerton, to Charles Smith, dustman, who presents "two bottes of cambric."

\* Nov. 6, 1595. Pat. 37 Eliz.

face out a disgrace, and I hoped her Majesty would not be offended that, not able to endure the sun, I fled into the shade.”\*

He next softened his purpose to exile for the rest of his days in the University of Cambridge, where the degree of A.M. had been recently conferred upon him.† Writing to Essex, after stating that his health was almost overthrown by what he had suffered, he says, “When I revolved the good memory of my father, the near degree of alliance I stand in to my Lord Treasurer, your Lordship’s so signalled and declared favour, the honourable testimony of so many councillors, the commendations unlaboured, and in sort offered by my Lords the Judges and the Master of the Rolls; — that I was voiced with great expectation, and, though I say it myself, with the wishes of most men to the higher place;‡ that I am a man that the Queen hath already done for, — and that Princes, especially her Majesty, love to make an end where they begin,—and then add hereunto the obscurity and many exceptions to my competitors,—I cannot but conclude with myself that no man ever read a more exquisite disgrace; and therefore truly, my Lord, I was determined, if her Majesty reject me, this to do. My nature can take no evil ply; but I will by God’s assistance with this disgrace of my fortune, and yet with that comfort of the good opinion of so many honourable and worthy persons, retire myself with a couple of men to Cambridge, and there spend my life in my studies and contemplations without looking back.”

He indulged in a short retreat to Essex’s villa, Twickenham Park, “where he once again enjoyed the blessings of contemplation in that sweet solitariness which collecteth the mind as shutting the eyes does the sight.” While there he writes to the Lord Keeper, “I thought it right to step aside for nine days which is the durance of a wonder, and not for any dislike of the world; for I think her Majesty hath done me as great a favour in making an end of this matter as if she had enlarged me from some restraint. I will take it upon that which her Majesty hath often said, that she doth reserve me and not reject me.” To Burghley he says, “My hope is that whereas your Lordship told me her Majesty was somewhat graved upon the offence she took at my speech in parliament, your Lordship’s favourable and good word that I speake to the best will be as good a tide to remove her from that shelf.”—He soon returned to business and ambition, and himself wrote a letter to the Queen, apologising “for his late arrest from her service, expressing his contentment to earn such vail as it pleased her Majesty to give him; and acknowledging a providence of God towards him that found it expedient for him *tolerare jugum in juventute.*”

\* Letter to Sir Robert Cecil.

† Grace, July 27, 1594. “Placet vobis ut Mr. Franciscus Bacon armiger honorabilis et nobilis viri domini Nicholai Bacon militis, &c. filius post studium decem annorum, partim in hac academia nostra, partim in transmarinis regionibus in dialecticis, philosophicis, Grecis, Latinisque literis ac cæteris humanioribus disciplinis sufficiat ei ut cooptetur in ordinem magistrorum in artibus,” &c.

‡ The Attorney Generalship — a little outbreak against Coke.

His submission gave great satisfaction to the Queen, and an attempt was made to bring about a vacancy in the office of Solicitor General for him; but Fleming could not be conveniently got rid of—and there was no other move among the law officers of the crown during the remainder of this reign.

Immediately upon his disappointment, Essex sought most munificently to console him. "After the Queen," he writes, "had denied me the Solicitor's place, for which his Lordship had been a long and earnest suitor on my behalf, it pleased him to come to me from Richmond to Twickenham Park, and brake with me, and said, *Mr. Bacon, the Queen hath denied me the place for you, and hath placed another; I know you are the least part of your own matter; but you fare ill because you have chosen me for your mean and dependence; you have spent your time and thoughts in my matters: I die (these were his very words) if I do not somewhat towards your fortune; you shall not deny to accept a piece of land which I will bestow upon you.*" After a decent resistance Francis yielded, and was enfeoffed of land at Twickenham, which he afterwards sold at an underprice for 1800*l.* He could not cancel all the past obligations of affectionate friendship, but he might at any rate have reconveyed this estate before he appeared as counsel against his benefactor, and before he entered on the task of writing "a Declaration of the Practices and Treasons attempted and committed by Robert Earl of Essex."

To show that he was not deficient in legal acquirements, as his detractors had represented, he wrote a treatise "Upon the Elements and Use of the Common Law," giving a specimen of the application of his favourite mode of reasoning to jurisprudence by the enunciation of general truths or "maxims," established by an extensive collection of particulars. In his Preface, he inculcated the doctrine which he often repeated, and which he acted upon notwithstanding his preference of other pursuits,—that there is a debt of obligation on every member of a profession to assist in improving the science in which he has successfully practised. He dedicated this work to the Queen, "as a sheaf and cluster of fruit of the favourable season enjoyed by the nation from the influence of her happy government, by which the people were taught, that part of the study of a good prince was to adorn and honour times of peace by the improvement of the laws!"\*

To indemnify himself for this effort, in the early part of the year 1597 he gave to the world his "Essays," which we may fairly ascribe to his residence in France when Montaigne's Essays were first published and were read with rapture by all classes in that country, although it was not till long after that, by means of a bad translation, they became popular in England. If not equal in lightness and grace to his original, he greatly exceeded him in depth of observation and

\* It was only now handed about in MS., but it has passed through several editions as a separate treatise, and, containing much recondite and accurate learning, it is still cited as authority under the title of "Lord Bacon's Maxims of the Law."

aphoristic sententiousness : he did not succeed so much as a delineator of manners, but he laid open the springs of human action, and he clothed his thoughts in diction which, for the first time, showed the richness and melody of English prose. The Essays were not only very favourably received in England, but, being immediately translated into Latin and most of the Continental languages, they spread the fame of Bacon, as an elegant writer, all over Europe.\* But this lustre of reputation did not seduce him from his greater purposes. "As for my Essays, and some other particulars of that nature," said he, "I count them but as the recreations of my other studies, and in that manner purpose to continue them ; though I am not ignorant that these kind of writings would, with less pains and assiduity, perhaps yield more lustre and reputation to my name than the others I have in hand."†

He was again returned to the parliament which met in October, 1597, and early in the session introduced two Bills against "Enclosures and the depopulation of towns." The practice of "clearing estates" was then going on in some parts of England, and we can easily forgive some bad political economy brought forward in attempts to prevent or mitigate the suffering which this system causes when recklessly pursued without regard to the maxim that "property has its duties as well as its rights." In his speech introducing his Bills he said, "I should be sorry to see within this kingdom that piece of Ovid's verse prove true, *Jam seges ubi Troja fuit*, —in England nought but green fields, a shepherd, and a dog. *Nemo putat illud videre turpe quod sibi sit quæstuosum*, and, therefore there is almost no conscience made in destroying the savour of life ; *panis sapor vita*." The Bills were referred to a committee, but did not pass.‡

He was successful, however, in that which probably interested him a good deal more, in for ever effacing the impression of his unlucky patriotic speech when he first entered the House. The Chancellor of the Exchequer having moved for a supply, and been seconded by Mr. Secretary Cecil, Mr. Francis Bacon rose, not to say any thing of "gentlemen selling their silver plate and yeomen their brass pots," but "to make it appear by demonstration, *what opinion so ever be pretended by others*,§ that in point of payments to the Crown, never subjects were partakers of greater freedom and ease. Whether you

\* In the first edition there were only ten, but he afterwards expanded some of these and added considerably to their number. In his dedication to his brother, he says he published it to check the circulation of spurious copies, "like some owners of orchards, who gather the fruit before it is ripe to prevent stealing ;" but this was only a pretence of authorship, and there can be no doubt that, by infinite pains, he had brought his compositions to his own standard of excellence before he committed them to the press. The 2d edition was published in 1598, the 3d in 1612, when he was Solicitor General, and the 4th in 1626, after his fall, and the year before his death.

† Letter to the Bishop of Winchester.

‡ 1 Parl. Hist. 890.

§ Thus he already has learned to sneer at the liberal party.

look abroad into other countries, or look back to former times in this our own country, we shall find an exceeding difference in matter of taxes. We are not upon excessive and exorbitant donations, nor upon sumptuous and unnecessary triumphs, buildings, or like magnificence, but upon the preservation, protection, and honour of the realm. I dare not scan her Majesty's actions, which it becometh me rather to admire in silence. Sure I am that the treasure which cometh from you to her Majesty is but a vapour which riseth from the earth, and gathering into a cloud, stayeth not there long, but on the same earth, falleth again."\* Accordingly a bill for a larger supply than was asked last parliament passed without opposition.

Bacon was now in high favour at Court, as well as still popular in the House by his eloquence†, and in the country by his writings; but he was desperately poor, for authorship, as yet, brought no profit, and his general practice at the bar was very inconsiderable. In spite of his economical habits, he had contracted some debts which were troublesome to him, and it was uncertain whether there might be an opening for him in the office of Solicitor General during the life of the Queen, who was now labouring under the infirmities of age. He therefore made a bold attempt to restore his position by matrimony. He was ever cold-blooded and calculating, not even affecting any thing romantic or tender. "You may observe," says he, "that amongst all the great and worthy persons whereof the memory remaineth, either ancient or recent, there is not one that hath been transported to the mad degree of love,— which shows that great spirits and great business do keep out this weak passion. There was never proud man thought so absurdly well of himself as the lover doth of the person loved; and therefore it is well said that it is impossible to love and be wise."‡ He did not, on this occasion, at all depart from his notions of what was becoming in "a great and worthy person;" for instead of offering incense to Venus, he was only considering of a scheme to make his pot boil. A daughter of Sir Thomas Cecil, the eldest son of Lord Burghley, had married Sir William Hatton, the nephew and heir of Lord Chancellor Hatton, and was soon after left a widow with a very large fortune at her own disposal. She was likewise noted for her wit, spirit, and turn for fashionable amusements. What was worse, she was said to be of a capricious and violent temper. Upon the whole, Bacon thought that the advantages of the connection predominated, and after a proper course of attention, in which he met with little encouragement, he proposed to her. It was a curious circumstance that she was at the same time addressed by his successful rival for the offices of Attorney and Solicitor General, Sir Edward Coke, who was then a widower with a large family and an immense fortune. If she had not read Francis

\* 1 Parl. Hist. 905.

† "Comitiis parliamentariis inferioris consessus, dum in ea domo sedit, per gratus semper fuit; in qua sepe peroravit non sine magno applausu." — Rawley.

‡ *Essay on Love.*

Bacon's *Essay on Love*, and so suspected him to be of a cold constitution, one would have thought that she could not have hesitated for a moment between her accomplished cousin,—a bachelor between thirty and forty,—although then a briefless barrister, yet destined to high office,—and the crabbed Attorney General with all his practice and large estates,—who was well stricken in years, and to whom there were “seven objections — his six children and himself.” Bacon met with a flat refusal, and she evidently favoured his rival. He thought, however, that he might succeed through the recommendation of Essex, who was then embarking on his famous expedition to Cadiz, and whom he thus addressed : — “ My suit to your Lordship is for your several letters to be left with me dormant to the gentlewoman and either of her parents. Wherein I do not doubt but as the beams of your favour have often dissolved the coldness of my fortune, so in this argument your Lordship will do the like with your pen.”

Essex's letter to the cruel young widow would have been a great curiosity, but it is lost. To Sir Thomas Cecil he writes, “ My dear and worthy friend, Mr. Francis Bacon, is a suitor to my Lady Hatton, your daughter. What his virtues and excellent parts are, you are not ignorant. What advantages you may give, both to yourself and to your house, by having a son-in-law so qualified, and so likely to rise in his profession, you may easily judge. Therefore, to warrant my moving of you to incline favourably to his suit, I will only add this, that if she were my sister or daughter, I protest I would as confidently resolve to farther it as I now persuade you.” He wrote a similar letter to Lady Cecil, who was one of the co-heirs of Neville Lord Latimer, assuring her that she would happily bestow her daughter on Francis Bacon, “ and if,” says he, “ my faith be any thing, I protest, if I had one as near to me as she is to you, I had rather match her with him than with men of far greater titles.” Nevertheless, the wayward Lady Hatton thought fit to run off with the future Chief Justice, and to enter into a clandestine and irregular marriage with him, for which they were both prosecuted in the Ecclesiastical Court. Bacon, in the result, had great reason to rejoice at this escape ; for the lady, from the honeymoon onwards, led Coke a most wretched life — refusing even to take his name, separating from him, doing every thing to vex and annoy him, and teaching his child to rebel against him.

However, the first effect of this discomfiture of Bacon, which, as we may suppose, was much talked of at Court and in the City, was to bring down upon him a relentless creditor ; and, instead of entertaining Elizabeth as he had expected at Harefield, part of Lady Hatton's possessions which had belonged to Sir Christopher, — he soon found himself confined in a spunging-house. He had borrowed the sum of 300*l.* from a usurer in Lombard Street of the name of Sympson, for which he had given a bond. An action having been brought against him on the bond, — as he had no defence, he gave a *cognovit*, with a stay of execution. The time of forbearance expired, and he was still

unprepared to pay. He denounces "the Lombard\*" as very hard-hearted,—seemingly without much reason; for when there was a writ out against him in the city, and he came to dine with Sheriff More, orders were given to the officer not to disturb the festivity of the day by arresting him. But a few days after, information being given that he had been seen to enter the Tower, he was "trained" as he returned through the city, and the "b—— bailiff" sacriliciously placed his hand on the shoulder of the future Lord Chancellor, and author of the *Novum Organum*. They wished to carry him immediately to gaol; but his friend Sheriff More "recommended him to an handsome house in Coleman street." The "Lombard," who lived close by, was sent for divers times, but would not so much as vouchsafe to come and speak with the poor prisoner, or take any order in the affair, but would leave him to his fate; "although," says Bacon, "a man I never provoked with a cross word—no, nor with many delays."

In this extremity he wrote a letter to Lord Keeper Egerton, suggesting that, as he had gone to the Tower on "a service of the Queen of no mean importance," he was privileged from arrest even in execution, "*eundo manendo et redeundo*;" but, without insisting on his privilege, requesting the Lord Keeper to send for Sympson, and to bring him to some reason.† He wrote a similar letter from his place of captivity to Mr. Secretary Cecil, in which he says,—"To belay me while he knew I came from the Tower about her Majesty's special service was, to my understanding, very bold."‡ A satisfactory arrangement was made for the payment of the debt, and in a few days he was set at liberty.

To this *disgrazia* Coke ungenerously alluded in the famous altercation he afterwards had with Bacon at the bar of the Court of Exchequer. Mr. Attorney seems to have taken great offence because without his sanction, and without his having a brief and a fee, the Queen's Counsel had presumed to make a motion about re-seizing the lands of a relapsed recusant in which the Crown was concerned. Bacon in his own defence having used as gentle and reasonable terms as might be, Mr. Attorney kindled and said, "Mr. Bacon, if you have any tooth against me, pluck it out, for it will do you more hurt than all the teeth in your head will do you good."

*Bacon (coldly).* "Mr. Attorney, I respect you; I fear you not: and the less you speak of your own greatness, the more I will think of it."

*Mr. Attorney.* "I think scorn to stand upon terms of greatness towards you, who are less than little,—less than the least," (adding other such strange light terms, with that insulting which cannot be expressed).

\* This seems then to have been used as a term of reproach, as Jew now is with us.

† Letters to the Lord Keeper and Sir R. Cecil, Oct. 1598. Works, vol. vi. 42.

‡ Ibid.

*Bacon (stirred but self-possessed).* “Mr. Attorney, do not depress me so far; for I have been your better and may be again, when it please the Queen.”

“With this,” says Bacon, “he spake neither I nor himself could tell what, *as if he had been born Attorney General*, and in the end bade me not meddle with the Queen’s business but with mine own, and that I was unsworn.”\*

*Bacon.* “Sworn or not sworn is all one to an honest man; I have ever set my service first and myself second; and I wish to God that you would do the like.”

*Mr. Attorney.* “It were good to clap a *capias utlegatum* upon your back.”

*Bacon.* “I thank God you cannot,—but you are at fault and hunt upon an old scent.”†

An account of this scene was immediately sent by Bacon to Secretary Cecil, “as one careful of his advancement and jealous of his wrongs,” and it must be taken with some grains of allowance,—though he says, “he dared trust rumour in it, unless it were malicious or extreme partial,” but on both sides it greatly exceeded the licence of forensic logomachy in our times, and with us much less must have led to a hostile meeting on Wimbledon Common or at Calais. But the law of the *duello* which was studied so sedulously in the reigns of Elizabeth and James I. by all other classes of gentlemen, seems to have been entirely neglected by those who addicted themselves to the common law of this realm.

Coke, conscious of his own inferiority in all liberal acquirements, continued to take every opportunity to “disgrace and disable” Bacon’s law, and his experience, and his discretion as an advocate. Yet this year, the *Essayist* and leader of the House of Commons gave proofs of professional learning and skill, which ought for ever to have saved him from such taunts. He wrote “the History of the Alienation Office,” a treatise worthy of Hale,—showing a most copious and accurate acquaintance with existing law, and with our legal antiquities.

He likewise delivered his celebrated argument in the Exchequer Chamber in Chudleigh’s Case, or “the Case of Perpetuities.”‡ This was a very important crisis in the History of the Law of Real Property in England. An attempt, which in the following century succeeded in Scotland, was making to introduce, by the artifices of conveyancing, a system of unlimited substitutions, or strict entails, which should effectually bar every species of alienation. The great question in this particular case was, “whether, there being a remainder limited by way of use upon a contingency, the destruction of the contingent estate by feoffment before the contingent remainder came *in esse* destroyed the contingent remainder?”—it being denied that

\* *i. e.* not sworn as Attorney or Solicitor General; yet he must have taken the oaths to serve her Majesty as Queen’s Counsel.

† Bacon’s Works, vol. vi. 46.

‡ 1 Rep. 120. a.

where the contingent remainder was limited by way of use, there was any necessity that it should vest, as at common law, at or before the determination of the preceding estate. Bacon's argument against this subtle device to create a perpetuity,—one of the most masterly ever heard in Westminster Hall,—was equal to that of Blackstone in *Perrin v. Blake*. He afterwards shaped it into [A. D. 1600.] a “Reading on the Statute of Uses,” which he delivered when Double Reader of Gray's Inn, a tract which we now possess, and which shows the legal acuteness of a Fearne or a Sugden. He did not himself undervalue his exertions in placing the law on the satisfactory footing on which it has remained in England ever since,—striking the happy medium between mere life interests and perpetuities,—and providing at once for the stability of families necessary in a mixed monarchy and freedom of commerce in land necessary for wealth under every form of government whatever. “I have chosen,” says he, “to read upon the Statute of Uses, a law whereupon the inheritances of this realm are tossed at this day like a ship upon the sea, in such sort, that it is hard to say which bark will sink and which will get to the haven; that is to say, what assurances will stand good, and what will not. Neither is this any lack or default in the pilots, the grave and learned Judges, but the tides and currents of received error, and unwarranted and abusive experience, have been so strong as they were not able to keep a right course according to the law. Herein, though I could not be ignorant either of the difficulty of the matter which he that taketh in hand shall soon find, or much less of my own unability which I have continual sense and feeling of, yet because I had more means of absolution than the younger sort, and more leisure than the greater sort, I did think it not impossible to work some profitable effect; the rather where an inferior wit is bent and constant upon one subject, he shall many times, with patience and meditation dissolve and undo many of the knots which a greater wit, distracted with many matters, would rather cut in two than unknit; and, at the least, if my invention or judgment be too barren or too weak, yet by the benefit of other arts, I did hope to dispose and digest the authorities and opinions which are in cases of uses in such order and method as they should take light one from another, though they took no light from me.”

This I think may be considered the most auspicious period of Bacon's career. By increased practice at the bar he had overcome his pecuniary difficulties. He was sure of professional advancement upon the next vacancy. He had been slighted by Lady Hatton, but the Queen showed much more personal favour to him than to his rival, Coke, the Attorney General, and consulted him about the progress and conduct of all her law and revenue causes. She not only gave him frequent audiences at her palace, but visited him and dined with him in a quiet way in his lodge at Twickenham.\* His literary

\* Bacon has himself given us a very amusing specimen of the royal talk on such occasions. It seems her Majesty was mightily incensed against a book lately pub-

eminence was very great both in England and on the Continent,—not only from what he had already published, but from the great works he was known to have on hand, an outline of which he was at all times willing to communicate to such as were capable of appreciating his plans and discoveries. Above all, his reputation was as yet untarnished. His sudden wheel from the liberal to the conservative side—an occurrence which, even in our days, society easily pardons from its frequency—was then considered merely as the judicious correction of a youthful indiscretion. All was now bright hope with him for the future—without self-reproach when he reflected on the past.

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### CHAPTER LIII.

#### CONTINUATION OF THE LIFE OF LORD BACON TO THE END OF THE REIGN OF ELIZABETH.

TRANSACTIONS now come upon us, which, though they did not seriously mar Bacon's fortunes, have affixed a greater stain upon his memory than even that judicial corruption by which he was at once precipitated from the height of power and greatness.

We have seen how Essex behaved to him with princely munificence, and with more than fraternal affection. Their intimacy continued without abatement till the ill-fated young nobleman had incurred the displeasure of his Sovereign. He steadily supported the interest of his friend at Court by his personal exertions: and when he was to be absent in his expedition to the coast of Spain, he most earnestly recommended him to the Queen, and all over whom he could expect to exercise any influence. Bacon repaid this kindness by the salutary advice he gave him, and above all by cautioning him against going as Lord Deputy to Ireland—a service unfit for his abilities, and which, from the errors he was in danger of committing in it, and the advantage to be taken of his absence by his enemies, was likely to lead to his ruin.

In spite of Essex's unfortunate campaign, and unsuccessful negotiations in Ireland, Bacon stuck by him as a defender,—believing that he retained his place in the Queen's heart, and that he would yet have the disposal of the patronage of the Crown. On his sudden

lashed, which she denounced as “a seditious prelude to put into the people's head boldness and faction,” and, having an opinion that there was treason in it, asked him “if he could not find any places in it that might be drawn within case of treason?”—*Bacon*. “For treason, Madam, I surely find none; but for *felony* very many.”—*Elizabeth* (very eagerly). “Wherein?”—*Bacon*. “Madam, the author hath committed very apparent theft, for he hath taken most of the sentences of Cornelius Tacitus, and translated them into English, and put them into his text.”—*Apology*. Works, vol. vi. 221.

return without leave from his command, and his hurrying down to Nonsuch, where the Court lay, Bacon followed him, and had the mortification to find, that, after a gleam of returning favour, the Earl had been ordered into confinement. But, to guard against exaggeration of the misconduct about to be exposed, I most eagerly admit that now, and down to the hour when the unhappy youth expiated his offences on the scaffold, Bacon showed him as much countenance as was entirely consistent with his own safety, convenience, and hope of advancement.

In a short interview which he had with him at Nonsuch, he said, “My Lord, *Nubecula, est, cito transibit*; it is but a mist;” and he wisely advised him “to seek access to the Queen *importune, opportune*, seriously, sportingly, every way.”\*

While Essex was a prisoner in the custody of Lord Keeper Egerton, at York House, as Bacon had frequent interviews with the Queen, which, he says, were only “about causes of her revenue and law business,” the rumour ran that he was incensing her against his young patron; and even Robert Cecil mentioned it to him, saying one day in his house at the Savoy, “Cousin, I hear it, but I believe it not, that you should do some ill office to my Lord of Essex; for my part I am merely passive, and not active in this action; and I follow the Queen, and that heavily, and I lead her not. The same course I would wish you to take.” Francis justified himself, and we believe truly, from the imputation. According to his own account he did every thing in his power to induce her to restore him to favour, resorting for this purpose to *rhyme* as well as to reason. About the middle of Michaelmas term, 1600, as she intimated her intention to dine with him at Twickenham, “though he professed not to be a poet, he prepared a sonnet, directly tending and alluding to draw on her Majesty’s reconciliation to my Lord,”—which he presented to her at her departure. He likewise, as he says, strongly dissuaded her from prosecuting Essex, on account of his great popularity; and he adds, “Never was I so ambitious of any thing in my lifetime as I was to have carried some token or favour from her Majesty to my Lord,—using all the art I had both to procure her Majesty to send, and myself to be the messenger.” Elizabeth mentioning to him one day at Whitehall the nomination of Lord Mountjoy for Deputy in Ireland, Bacon said to her, Surely, Madam, if you mean not to employ my Lord of Essex thither again, your Majesty cannot make a better choice.” “Essex!” said she; “whencever I send Essex back again into Ireland, I will marry you;—claim it of me.” Whereunto, out of zeal for the imprisoned Earl, he said, “Well, Madam, I will release that contract, if his going be for the good of your state.” She was so far offended, that in Christmas, Lent, and Easter term following, when he came to her on law business, her face and manner were not so clear and open to him as usual, and she was entirely

silent respecting Essex. After that she declared that she was resolved to proceed against him—by information *ore tenus* in the Star Chamber, although it should be *ad castigationem, et non ad destructionem*. Then, to divert her entirely from this purpose, Bacon said, “Madam, if you will have me speak to you in this argument, I must speak to you as Friar Bacon’s head spake, that said first *Time is*, and then *Time was*, and *Time will never be*; it is now far too late—the matter is cold, and hath taken too much wind.”

We have the account of these dialogues only from himself after her death, and it is to be regarded with great suspicion, as there is reason to think that she gave a somewhat different version of them in her lifetime; for, introducing his narrative, and alluding to the stories circulated against him, he says, “I will not think that they grew any way from her Majesty’s own speeches, whose memory I will ever honour; if they did, she is with God, and *miserum est lædi de quibus non possis queri.*”

He takes to himself the entire merit of having the Star Chamber prosecution converted into the extrajudicial inquiry before the Lord Keeper and other Commissioners at York House,\* by saying to her, “Why, Madam, if you will needs have a proceeding, you were best have it in some such sort as Ovid spoke of his mistress, *est aliquid luce patente minus.*”

It is quite certain, however, that he had never ventured to visit his friend during his long captivity, or to give him any public support; and the people (to the honour of England be it spoken) ever shocked by private treachery and ingratitude, were indignant at his conduct, and gave credit to a sinister speech raised of him how he was a suitor to be used against my Lord of Essex at that time.” To clear himself from this imputation, he has left us the substance of a letter which he wrote to her when he heard “that her Majesty was not yet resolved whether she would have him forborne in the business or no,” and which, I must say, rather betrays an apprehension that he might lose the advantage and *éclat* of holding a brief in a case of such public expectation: “That if she would be pleased to spare me in my Lord of Essex’s cause out of the consideration she took of my obligation towards him, I should reckon it for one of her greatest favours; *but, otherwise, desiring her Majesty to think that I know the degrees of duties; and that no particular obligation whatsoever to any subject could supplant or weaken that entireness of duty that I did owe and bear to her service.*” The vindication was completely satisfactory to himself, according to his own standard of honour and delicacy, for he says triumphantly, “This was the goodly suit I made, being a respect no man that had his wits could have omitted.”

But in casting the parts to be taken by the different counsel, he was not satisfied with the minor one assigned to him, which was to show that Essex had given some countenance to the libellous publica-

\* *Ante*, p. 179. *Apology*, vol. vi. 220, 221.

tion stolen from Cornelius Tacitus ; and he objected to the allotment,—“that it was an old matter, and had no manner of coherence with the rest of the charge ;” but he was answered in manner showing that others knew better what became him than himself, “because it was considered how I stood to my Lord of Essex, therefore that part was thought fittest for me which did him the least hurt, for that whereas all the rest was matter of charge and accusation, this only was but matter of caveat and admonition.” Though, “*nolen volens*, he could not avoid the part laid upon me by the Queen’s pleasure,” when the day came he made the most of it, and, admitting that “he did handle it not tenderly,” he assures us that this seeming harshness “must be ascribed to the superior duty he owed to the Queen’s fame and honour in a public proceeding, and partly to the intention he had to uphold himself in credit and strength with the Queen, the better to be able to do my Lord good offices afterwards !”

At the Queen’s request he wrote out for her a report of the trial, which he read to her in two several afternoons ; and when he came to Essex’s defence, he says, she was much moved, and, praising the manner in which it was given, observed, “she perceived old love could not easily be forgotten.” Upon which, he tells us, he ventured to reply, “that he hoped she meant that of herself.”

He really had a desire, if not to satisfy his conscience,—for the sake of his reputation, to assist in restoring Essex to favour. With this view he composed several letters for him to be addressed to the Queen, and a letter, supposed to be written by his brother to Essex,—with the answer from Essex to his brother,—which were privately shown to the Queen with a view of mollifying her.

On one occasion, mentioning to her a doctor who had for a time cured his brother of the gout, but that the patient had afterwards found himself worse, she said, “I will tell you, Bacon, the error of it ; the manner of these empirics is to continue one kind of medicine, which at the first is proper, being to draw out the ill humour, but after, they have not the discretion to change the medicine.” “Good Lord, Madam,” said he, “how wisely and aptly can you speak and discern of physic ministered to the body, and consider not that there is the like occasion of physic ministered to the mind.” And then he went on to apply the doctrine to the case of Essex, from whom the humour had been sufficiently drawn, and who stood in need of having strength and comfort ministered to him.

Essex was now liberated from custody, but soon began to set the Court at defiance, and Bacon became very unhappy at the double game he had been playing ; for there was little prospect of the favourite being restored to power ; and in the meantime Elizabeth testified great displeasure with his old “Mentor,” under whose advice she believed he was acting. For three months she would not converse with her “counsel extraordinary,” even on law matters, and “she turned away from him with express and purpose-like discountenance wheresoever she saw him.” At last, after new-year’s-

[A. D. 1601.] tide, he boldly demanded an audience, with the evident intention of intimating to her that he was ready to renounce all connection with Essex for ever. He tells us that he thus addressed her:—"Madam, I see you withdraw your favour from me, and now I have lost many friends for your sake. I shall lose you too: you have put me like one of those that the Frenchmen call *Enfants perdus*, that serve on foot before horsemen; so have you put me into matters of envy, without place or without strength; and I know at chess a pawn before the king is ever much played upon. A great many love me not because they think I have been against my Lord of Essex, and you love me not because you know I have been for him; yet will I never repent me that I have dealt in simplicity of heart towards you both, without respect of cautions to myself, and, therefore, *vivus vidensque pereo*. If I do break my neck, I shall do it in a manner as Mr. Dorrington did it, which walked on the battlements of the church many days, and took a view and survey where he should fall. And so, Madam, I am not so simple but that I take a prospect of my overthrow; only I thought I would tell you so much, that you may know that it was faith, and not folly, that brought me into it, and so I will ever pray for you." He says, that by this speech uttered with some passion, her Majesty was exceedingly moved, and said to him, *Gratia mea sufficit*, with other sensible and tender words; but as touching my Lord of Essex, *ne verbum quidem*. "Whereupon," says he, "I departed, resting then determined to meddle no more in the matter, as that, I saw, would overthrow me, and not be able to do him any good."\*

To this selfish resolve may be ascribed the fatal catastrophe which soon followed. Essex, irritated by the Queen's refusal to renew his patent for the monopoly of sweet wines, was beginning to engage in very criminal and very foolish projects; but if Bacon, whom he was yet inclined to love and honour, had continued to keep up an intercourse with him, had visited him in Essex house, had seen the desperate companions with whom he was there associating, and had warned [A. D. 1601.] him of the danger to which he was exposing himself and the state, it is utterly impossible that the mad attempt to raise an insurrection in the city, and forcibly to get possession of the Queen's person, should ever have been hazarded. But the rash enthusiast, suddenly deserted by him on whose sagacity and experience he had relied ever since he had entered into public life, listened to the advice of men destitute alike of prudence and of virtue; and, after committing the clearest acts of treason and rebellion, was obliged to surrender himself to justice.

It might have been expected that now, at any rate, struck with remorse and overcome by tenderness, Bacon would [FEB. 8, 1601.] have hastened to the noble prisoner's cell in the

\* Apology. Works, vol. vi. 231.

Tower to comfort and console him,—to assist him in preparing an almost hopeless defence,—to devise schemes with him for turning away the anger of the Queen,—to teach him how he might best avail himself for his deliverance of that ring which Bacon knew had been intrusted to him, with a promise that it should bend her to mercy whenever returned to her,—which she was anxiously looking to see till the very moment of his execution,—and the thought of which embittered her own end. At all events, he might have helped his fated friend to meet death, and have accompanied him to the scaffold.

Tranquillised by an assurance that he was to be employed along with the King's Serjeant, and the Attorney and Solicitor General, as counsel for the Crown, on the trial of Essex before the Lord High Steward, Bacon spent the ten days which elapsed between the commitment to the Tower and the arraignment, shut up in his chambers in Gray's Inn, studying the law of treason,—looking out for parallel cases of an aggravated nature in the history of other countries,—and considering how he might paint the unpardonable guilt of the accused in even blacker colours than could be employed by the ferocious Coke, famous for insulting his victims.

The 19th of February arrived. Bacon took his place early at the bar of the Court constructed for the Peers in Westminster Hall,—his mind filled with the precedents and the tropes he had accumulated. Even he must have felt a temporary pang when the object of general sympathy, as yet little turned of thirty years of age,—whose courage was so exalted, whose generosity was so unbounded, whose achievements were so brilliant, who had ever testified to him a friendship not exceeded by any mentioned in history or fiction,—was conducted into the Hall by Sir Walter Raleigh and the officers of the Tower, preceded by the axe, its edge still turned from him till the certain verdict of *Guilty* should be pronounced. But if Bacon felt a little awkwardness when he first met the eye of his friend, he soon recovered his composure, and he conducted himself throughout the day with coolness, zeal, and dexterity.

Yelverton, the Queen's Serjeant, and Coke, the Attorney General, first addressed the Peers, and adduced the evidence. Essex then, unassisted with counsel, made his defence, chiefly dwelling upon the provocation he had to right himself by force from the machinations of his enemies, who had plotted his destruction. The reply was intrusted to Bacon, although it ought to have been undertaken by Fleming, the Solicitor General. We have only a short sketch of it,—from which we learn, that taunting Essex with having denied nothing material, he particularly addressed himself to the apology he had relied upon,—comparing him to Cain, the first murderer, who took up an “excuse by impudency,” and to Pisistratus, who doting on the affections of the citizens, and wishing to usurp supreme power, wounded his own body that it might be thought he had been in danger. He thus concluded, “And now, my Lord, all you have said or

can say in answer to these matters are but shadows, and therefore methinks it were your best course to confess, and not to justify.”\*

It so happened that the topics on which Essex had relied in his defence were chiefly taken from a letter which Bacon had penned for him to Queen Elizabeth. The simple-minded Earl, unprepared for such duplicity, and unable to distinguish between his private friend and the Queen's counsel, now exclaimed, “ May it please your Lordship, I must produce Mr. Bacon for a witness.” He then went on to explain the contents of the letter, whereby “ it will appear what conceit he held of me, and now otherwise he here coloureth and pleadeth the contrary.”

Bacon, a little abashed, thus retorted:— “ My Lord, I spent more hours to make you a good subject than upon any man in the world besides; but since you have stirred upon this point, my Lord, I dare warrant you this letter will not blush; for I did but perform the part of an honest man, and even laboured to have done you good, if it might have been, and to no other end; for what I intended for your good was wished from the heart, without touch of any man's honour.”

Essex made a feeling appeal to the Peers sitting on his trial, against “ these orators, who, out of a form and custom of speaking, would throw so much criminal odium upon him, while answering at the peril of his life a particular charge brought against him.” “ And,” he said, in a manner that made a deep impression on all who heard him, “ I protest before the ever-living God, as he may have mercy on me, that my conscience is clear from any disloyal thought or harm to her Majesty. My desire ever hath been to be free from bloodshed. If in all my thoughts and purposes I did not ever desire the good estate of my Sovereign and country as of my own soul, I beseech the Lord to set some mark upon me in this place for a just vengeance of my untruths to all the world. And God, which knoweth the secrets of all hearts, knoweth that I never sought the crown of England, nor ever wished to be a higher degree than a subject. I only sought to secure my access to the Queen, that I might speedily have unfolded my griefs unto her Majesty against my private enemies, but not to have shed one drop of their blood. For my religion it is sound, and as I live I mean to die in it.”

This appeal might from sympathy have produced a verdict of *not guilty*, or might have softened the resentment of Elizabeth; but to deprive him of all chance of acquittal or of mercy, Bacon, after again pointing out how slenderly he had answered the objections against him, most artfully and inhumanly compared him to the *Duke de Guise*, the leader of the league in France, who kept in tutelage the last Prince of the House of Valois, and who on “ the day of the Barricades” at Paris, intending to take forcible possession of his Sovereign's person, with the purpose of dethroning him, had such confidence in the love of the citizens, that he appeared to lead the intended insur-

rection in his doublet and hose, attended with only eight men,— and who, when he was obliged to yield, the King taking arms against him,— pretended that he had merely contemplated a private quarrel.

Essex having been condemned, Elizabeth wavered to the last moment about carrying the sentence into execution. One while relenting, she sent her commands, by Sir Edward Carey, that he should not be executed ; — then, remembering his perverse obstinacy, — that he scorned to ask her pardon or to send her the ring, the appointed pledge of love and reconciliation, — she from time to time recalled the reprieve. It is highly probable that, under these circumstances, Bacon might have saved the life of his friend, either by advising him or interceding for him. He went not to the Tower, and although, “ between the arraignment and my Lord’s suffering, he was once with the Queen, yet he durst not deal directly for my Lord, as things stood.” He tells us, indeed, that “ he did commend her Majesty’s mercy, terming it to her as an excellent balm that did continually distil from her sovereign hands, and made an excellent odour in the senses of her people.” But while he thus flattered her, he did not venture to hint that her reputation for mercy would be endangered by suffering the law to take its course against Essex, who, though technically guilty of treason, instead of “ imagining and compassing her death,” felt for her the sincerest loyalty and reverence, and would cheerfully have died in her defence. Why did he not throw himself on his knees before her and pray for a pardon ? — Because, while it was possible that he might have melted her, it was possible that he might have offended her, and that a vacancy in the office of Solicitor General occurring, he might be again passed over.

Worse remains behind. The execution being deeply deplored and censured by the people, and Elizabeth, when she afterwards appeared in public, being received with the coldest silence instead of the enthusiastic plaudits to which she had been accustomed for forty years, she wished a pamphlet to be written to prove that Essex was properly put to death, and she selected Francis Bacon to write it. He, without hesitation, undertook the task, pleased “ that her Majesty had taken a liking of his pen,” and, with his usual industry and ability, soon produced “ A Declaration of the Practices and Treasons of Robert, late Earl of Essex.”

No honourable man would purchase Bacon’s subsequent elevation at the price of being the author of this publication. A mere report of the trial for treason would have been excusable ; but, to blacken the memory of his friend, he goes back to a period when they were living together on terms of the closest intimacy, — when Essex was entirely under his influence ; — and he accuses him of crimes of which he knew that the deceased was entirely innocent. Having begun by saying that the favourite aspired to the greatness of the *Praefectus Praetorio* under the emperors of Rome, he charges him with having formed a treasonable design when he first went Deputy to Ireland. “ For being a man by nature of an high imagination, and a great pro-

miser to himself as well as to others, he was confident that if he were once the first person in a kingdom, and a sea between the Queen's seat and his, and Wales the nearest land from Ireland, and that he had got the flower of the English forces into his hands, which he thought so to intermix with his followers, as the whole body should move by his spirit, and if he might also have absolutely into his own hands *potestatem vitæ et necis et arbitrium belli et pacis* over the rebels, he should be able to make that place of lieutenancy of Ireland as a rise or step to ascend to his desired greatness in England." Next, all his proceedings in Ireland are converted into overt acts of this treasonable design. But none knew better than Bacon that, though Essex's Irish policy had been unwise and unfortunate, he had most earnestly done his best to serve his country, and that when he returned he had been both publicly and privately absolved of all disloyalty,—the only charge maintained against him being, that he had acted in some instances contrary to his instructions.

Bacon vainly attempts to mitigate his own infamy by saying, "Never Secretary had more particular and express directions in every point how to guide my hand in it;" and that, after the first draught, it was materially altered by certain counsellors to whom it was propounded by her Majesty's appointment,—he himself giving only words and form of style. After the specimen I have exhibited, what shall we say of his asseveration?—"their Lordships and myself both were as religious and curious of truth as desirous of satisfaction."

The base ingratitude and the slavish meanness manifested by Bacon on this occasion called forth the general indigation of his contemporaries. He afterwards tried to soften this by his "Apology, addressed to Mountjoy Earl of Devonshire,"—a tract from which I have taken most of the facts on which my censure is founded, and which seals his condemnation with posterity; as it not only admits these facts, but shows that he had before his eyes no just standard of honour, and that in the race of ambition, he had lost all sense of the distinctions between right and wrong.\*

A zealous advocate, however, has sprung up, who, considering Bacon to be the *purest* as well as the "wisest and brightest of mankind," pronounces his conduct through the whole course of these transactions to be deserving of high admiration.† It will be necessary to do little more than notice the heads of the defence or panegyric. 1. "Bacon did well in preferring the Queen to Essex, as *she* had been so kind to him; and, instead of pampering him with good things, made him for his advantage bear the yoke in his youth." This seems

\* He begins by giving a false account of the origin of his connection with Essex: I loved my country more than was answerable to my fortune, and I held my Lord to be the fittest instrument to do good to the state, and therefore I applied myself to him," &c. He knew well that the precocious boy was wholly unfit to be a minister of state, and he applied himself to him because he hoped for advancement from the new favourite.

† Montagu's Life of Bacon.

to proceed on the ranting and absurd maxim in the "Apology," that "every honest man that hath his heart well planted will forsake his friend rather than forsake his King." Friendship cannot justify treason or any violation of the law; but are the sacred ties of friendship to be snapt asunder by the caprice of any crowned head? Elizabeth had conferred no personal obligations on Bacon; she had refused him the professional advancement to which he was fairly entitled; and her only object was to make the most of him at the least cost. 2. "Bacon was bound to appear as counsel against Essex, according to professional etiquette." Suppose that his dearly beloved brother, Anthony, who was in the service of Essex, had taken part with him in the insurrection on the 8th of February, and had been prosecuted for high treason, must Francis have appeared as counsel against him, and racked his ingenuity that his brother might be hanged, embowelled, beheaded, and quartered? Etiquette cannot be opposed to the feelings of nature, or the dictates of morality. A dispensation might easily have been obtained, if there had been a willingness to renounce the advantage and *éclat* of the appearance. 3. "Essex had abused his friendship, and had assumed the dissembling attitude of humility and penitence that he might more securely aim a blow at the very life of his royal benefactress." This is an utter misrepresentation of the object of Essex's insurrection; at any rate, he had not engaged in it till Bacon had selfishly thrown him off; and Essex's public crime could not cancel the claims of private friendship, which he had never violated. But, 4. "Bacon was bound not to run the risk of marring his advancement, as he meant to use power, when attained, for the benefit of mankind." Will the end justify the means? and was he not more likely to improve the world by devoting himself to the completion of the *Instauratio Magna*, than by struggling to obtain the Great Seal, which he might lose by taking a bribe?

For some time after Essex's execution, Bacon was looked upon with great aversion; and, from the natural tendency of mankind to exaggerate, he was even suspected of having actively prompted that measure.

But it is marvellous to witness what men of brilliant talents, and of enterprise and energy, may accomplish, in making the public forget their errors and misconduct by means of drawing the public attention to themselves in new situations and circumstances.

Parliament meeting a few months after the execution of Essex, that event which had so deeply interested the nation was, for a time, almost forgotten in the excitement occasioned by the Queen's fainting fit on the throne, the shutting out of the Commons [Oct. 1601.] from the House of Lords when the royal speech was delivered, and the efforts made to put down the frightful grievance of monopolies.\* Bacon being again returned as a member of the House of Commons, we may believe that he was at first not only shunned by the friends of Essex, but

\* *Ante*, p. 187.

looked upon very coldly by men of all parties and opinions. He was determined to regain his ascendancy. In the exercise of the privilege which then belonged to the representatives of the people, and still belongs to Peers, of laying bills on the table without previously asking leave to bring them in, he immediately introduced a bill "for the better suppressing abuses in weights and measures," saying, "This, Mr. Speaker, is no bill of state nor of novelty, like a stately gallery for pleasure, but neither to live in nor sleep in; but this bill is a bill of repose, of quiet, of profit, of true and just dealings. The fault of using false weights and measures is grown so intolerable and common, that if you would build churches you shall not need for battlements and halls, other than false weights of lead and brass. I liken this bill to that sentence of the poet who set this as a paradox in the fore-front of his book: *First water, then gold*, preferring necessity before pleasure. And I am of the same opinion, that things necessary in use are better than things which are glorious in estimation." He said he would speak to every particular clause "at the passing of the bill." But he was not able to carry it, and the subject remained for legislation in the reign of William IV.

A supply being proposed greater than was ever previously granted (four subsidies and eight fifteenths), Bacon warmly supported it, and ridiculed a motion for exempting "three pound men," saying, "dulcis tractus pari jugo;" therefore, the poor as well as the rich should pay.

This drew upon him a sarcasm from Sir Walter Raleigh, then at variance with the Court, who (without quoting Hansard) referred to Bacon's famous patriotic speech, and said "that he was afraid our enemies, the Spaniards, would hear of our selling our pots and pans to pay subsidies. *Dulcis tractus pari jugo*, says an honourable person. Call you this *par jugum*, when a poor man pays as much as a rich, and peradventure his estate is no better than he is set at, when our estates, that be 30*l.* or 40*l.* in the Queen's books, are not the hundredth part of our wealth? Therefore, it is not *dulcis* nor *par*." The supply, nevertheless, was carried by a large majority.

But the great question of the session was MONOPOLY, — on which Bacon took a most discreditable part. The grievance of grants of the exclusive right to deal in commodities had become altogether insupportable, and had caused the deepest ferment throughout the kingdom. It is difficult to conceive how society could subsist at a time when almost all matters of household consumption or commercial adventure (with the exception of bread, which was expected soon to be included) were assigned over to monopolists, who were so exorbitant in their demands that they sometimes raised prices tenfold; and who, to secure themselves against encroachments, were armed with high and arbitrary powers to search every where for contraband, and to oppress the people at pleasure. A declaratory bill having been brought in by Mr. Lawrence Hide to put down the grievance, and to restore common-law freedom of trade, it was thus opposed by —

Mr. Francis Bacon. "The bill is very injudicious and ridiculous;

*injurious*, in that it taketh, or rather sweepeth away her Majesty's prerogative ; and *ridiculous*, in that there is a proviso that the statute shall not extend to grants made to Corporations, that is a gull to sweeten the bill withal ; it is only to make fools fain. All men of the law know, that a bill which is only expository, to expound the common-law, doth enact nothing ; neither is any promise of good therein."

Mr. Secretary Cecil quoted Bracton : " *Prerogativum nostrum nemo audeat disputare* ;" adding, " and for my own part, I like not these courses should be taken ; and you, Mr. Speaker, should perform the charge her Majesty gave unto you in the beginning of this parliament, not to receive bills of this nature ; for her Majesty's ears be open to all grievances, and her hand stretched out to every man's petitions."\*

The House, nevertheless, showed such a determined spirit, that the Queen was compelled to yield ; and she wisely put an end to the discussion by sending a message, through the Speaker, that the monopolies should be cancelled. Bacon did not openly retract his defence of them ; but Secretary Cecil now observed, " there is no patent whereof the execution, as I take it, hath not been injurious. Would that there never had been any granted. I hope there shall never be more." Whereupon there were loud cheers, according to the fashion of the time : " all the House said, AMEN."† There is nothing more interesting in our constitutional history, than to trace the growing power and influence of the House of Commons, from the increasing wealth and intelligence of the middling orders during the reign of Elizabeth, notwithstanding the arbitrary orders which she issued to them, and her habit, hardly considered illegal, of sending members to gaol when they offended her. The abolishers of monopolies were the fathers of those who, in the next generation, passed " the Petition of Right," and assembled in the Long Parliament. Bacon himself lived to see both Houses unanimous in putting down judicial corruption.

In this reign he did not again take part in any affairs of importance. Like the Cecils, he was turning his eyes to the north, where the rising light he was desirous to worship was to appear.

\* 1 Parl. Hist. 934.

† Ibid.

## CHAPTER LIV.

## CONTINUATION OF THE LIFE OF LORD BACON FROM THE ACCESSION OF JAMES I. TILL HIS APPOINTMENT AS LORD KEEPER.

BACON had not contrived to open any direct communication with James during Elizabeth's life ; — but no sooner had she breathed her last at [MARCH 24, 1603.] Richmmond, than he took active steps to recommend himself to the new monarch. He first wrote letters to Fowllys, a confidential person at the Scottish court, to be shown to James, — in which (among other flatteries), he says, “ We all thirst after the King's coming, accounting all this but as the dawning of the day before the rising of the sun, till we have his presence.”\* He wrote similar letters to Sir Thomas Chaloner, an Englishman, who had gone down to salute James, and was made governor to Prince Henry, — to Dr. Morrison, a physician at Edinburgh in the confidence of James, — and to Lord Kinlosse, his prime favourite, who, strangely enough, for want of a place for which he was fitter, was made Master of the Rolls. In a few days after he addressed a letter directed to James himself. Having heard of his pedantic taste, he thus tries to suit it :

“ It may please your most excellent Majesty, — It is observed by some upon a place in the Canticles, *Ego sum flos campi et lilyum convallium*, that *a dispari*, it is not said, *Ego sum flos horti et lilyum montium*, because the majesty of that person is not inclosed for a few, nor appropriated to the great.” He then goes on to say, that he would not have made oblation of himself, had it not been for the liberty which he enjoyed with his late dear sovereign Mistress, — “ a princess happy in all things, but most happy in such a successor.”† Having extolled the services of old Sir Nicholas and of his brother Anthony, and modestly alluding to his own, he thus shows the measure he had taken of the discernment and taste of King James. “ And therefore, most high and mighty King, my most dear and dread Sovereign Lord, since now the corner-stone is laid of the mightiest monarchy in Europe, and that God above who hath ever a hand in bridling the floods and mo-

\* Works, vol. v. 272.

† This seems to have afforded a happy hint for the famous Dedication (“ with a double aspect”) of a law-book to Lord Eldon by a gentleman, who, after obtaining permission to dedicate to him, and before the book was published, seeing his intended patron suddenly turned out of office, — after some compliments to departed greatness says, “ but your felicity is that you contemplate in your successor a person whose judgment will enable him to appreciate your merits, and whose talents have procured him a name among the eminent lawyers of this country.” — Raithby’s Edition of Vernon.

tions both of the seas and of people's hearts, hath by the miraculous and universal consent, the more strange because it proceedeth from such diversity of causes in your coming in, given a sign and token of great happiness in the continuance of your reign,—I think there is no subject of your Majesty's which loveth this island, and is not hollow and unworthy, whose heart is not set on fire not only to bring you peace-offerings to make you propitious, but to sacrifice himself a burnt-offering or holocaust to your Majesty's service.”\*

Nevertheless, by some accident, Bacon's name was omitted in the first warrant sent from Holyrood, for continuing different persons connected with the law in their offices; but on the 21st of April, when James had reached Worksopp in his progress to the south, he addressed another warrant to the Lord Keeper, whereby, after reciting that he had been informed that Francis Bacon, Esq., was one of the learned counsel to the late Queen by special commandment, he says, “Therefore we do require you to signify our pleasure to him and others to whom it shall appertain to be thereof certified, that our meaning is he shall continue to be of our learned counsel in such manner as before he was to the Queen.”

As James approached, Bacon sent him the draught of a proclamation which he recommended to be issued, — giving assurance that no man's virtue should be left idle, unemployed, or unrewarded;” but it was not adopted, as greater expectations of advancement had been already excited than could possibly be gratified.

Immediately on the King's arrival at Whitehall, Bacon was presented to him, and had a promise of private access. He thus confidentially describes James to the Earl of Northumberland, who had not yet been at Court: — “His speech is swift and cursory, and in the full dialect of his country; in speech of business, short; in speech of discourse, large. He affecteth popularity by gracing such as he hath heard to be popular, and not by any fashions of his own. He is thought somewhat general in his favours, and his virtue of access is rather because he is much abroad and in press than that he giveth easy audience. He hasteneth to a mixture of both kingdoms faster than policy will well bear. I told your Lordship, once before, that methought his Majesty rather asked counsel of the time past than of the time to come; but it is yet early to ground any settled opinion.”

He pretended that he had formed a resolution to devote himself for the rest of his days to philosophy, saying: — “My ambition now I shall only put upon my pen, whereby I shall be able to maintain memory and merit of the times succeeding.”† But in reality a ludicrous anxiety had entered the mind of the great Bacon—that he might be dubbed a knight, and in creditable fashion. Under the Tudors, knighthood was a distinction reserved to grace the highest offices, and

\* Works, vol. v. 275.

† Bacon immediately discovered this defect in the Stuart character, which proved fatal to the dynasty.

‡ Letter to Cecil, July 3, 1603.

to reward the wost eminent services. James, from his accession, lavished it on almost all who solicited it, and turned it into a source of profit, by compelling all who had land of the yearly value of forty pounds to submit to it on payment of high fees, or to compound for it according to their ability. Bacon, perhaps, would have been better pleased with the rare distinction of escaping it, but for the special reasons he assigns in the following letter to Cecil, soliciting that it might [JULY 3, 1603.] be conferred upon him:—"It may please your good Lordship — For this divulged and almost prostituted title of knighthood, I could, without charge, by your honour's mean, be content to have it, both because of this late disgrace\*, and because I have three new knights in my mess in Gray's Inn commons, and because I have found out an Alderman's daughter, a handsome maiden, to my liking. So as if your honour will find the time, I will come to the Court from Gorhambury upon any warning."

A promise being obtained, he now writes to Cecil, praying that he [JULY 16, 1603.] should be knighted privately by himself — "For my knighthood I wish the manner might be such as might grace me, since the matter will not—I mean that I might be merely gregarious in a troop. The coronation is at hand." In this desire for a solitary ceremony he was disappointed, and on the 23d of July, the day of the coronation, he was obliged to kneel down with a mob of above 300, and to receive a stroke of a sword from James, who was almost frightened to handle it or look at it even when so used. However, he rose Sir Francis; he was as good as the other members of his mess at Gray's Inn, and the handsome and rich Miss Barnham speedily became Lady Bacon. I am afraid that this was a match of mere convenience, and not very auspicious.

At the commencement of the new reign Bacon experienced some embarrassment from the part he had taken against Essex,—there being a strong manifestation of affection towards the memory of that nobleman, and in favour of the party who had supported him. The Earl of Southampton, famous as the enlightened patron and generous friend of Shakspeare, had been tried for treason, and convicted, and, receiving a respite, had been kept close prisoner in the Tower till the death of Elizabeth. His pardon was now expected, and crowds went to visit him while he still remained in confinement. Among these Bacon did not venture to show himself, but he wrote a letter to the Earl, betraying a deep consciousness of having done what was wrong. "Yet," says he (clearly reflecting on his honoured mistress), "it is as true as a thing that God knoweth, that this change hath wrought in me no other change towards your Lordship than this, that I may safely be that to you now which I was truly before."†

This meanness excited nothing but disgust, and there was such a

\* I do not know what this refers to. I do not find that he complained of the re-appointment of Coke and Fleming as Attorney and Solicitor General.

† Works, v. 281.

strong expression of resentment against him, that, instead of waiting quietly till the public should be occupied with other subjects, he very imprudently published "The Apology of Sir Francis Bacon in certain Imputations concerning the late Earl of Essex," which has injured him more with posterity than all the attacks upon him by his enemies.

His first appearance in public, in the new reign, was as one of the counsel for the Crown on the trial of Sir Walter Raleigh, arising out of the conspiracy to put Lady Arabella Stuart on the throne ; but he was not permitted by Coke, the Attorney General, to address the jury, or even to examine any of the witnesses ; and, in his depressed state, he was rather willing to escape from public observation. If he had any malignity, it must have been abundantly gratified by witnessing the manner in which his browbeating rival exposed himself on this occasion.\*

When James's first parliament met, in the spring of the following year, Bacon again raised his crest, and made the world forget, if not forgive, his past misconduct. [MARCH 19, 1604.] Being returned to the House of Commons both for St. Alban's and Ipswich, he chose to serve for the latter borough, which certainly had a most active and able representative. During this session he spoke in every debate, he sat upon twenty-nine committees, and he contrived to make himself popular, by standing up for a redress of grievances,—and a special favourite of the King, by supporting James's pet plan of a union with Scotland. He was appointed one of the Commissioners for negotiating this great measure, and did all he could to soften the prejudices of the English nation against it.

\* Coke stopping Raleigh in his defence, denounced him as an atheist, and saying he had an English face but a Spanish heart. Cecil, one of the Commissioners, said, "Be not so impatient, Mr. Attorney ; give him leave to speak."

Coke. "If I may not be patiently heard, you will encourage traitors and discourage us. I am the King's sworn servant, and I must speak. If he be guilty, he is a traitor ; if not, deliver him."

Note. Mr. Attorney sat down in a chafe, and would speak no more until the Commissioners urged and entreated him. After much ado he went on, and made a long repetition of all the evidence for the direction of the jury ; and at the repeating of some things Sir Walter Raleigh interrupted him, and said he did him wrong.

Coke. "Thou art the most vile and execrable traitor that ever lived."

Raleigh. "You speak indiscreetly, barbarously, and uncivilly."

Coke. "I want words sufficient to express your viperous treasons."

Raleigh. "I think you want words, indeed, for you have spoken one thing half a dozen times."

Coke. "Thou art an odious fellow ; thy name is hateful to all the realm of England for thy pride."

Raleigh. "It will go near to prove a measuring cast between you and me, Mr. Attorney."

Coke. "Well, I will now make it appear to the world that there never lived a viler viper upon the face of the earth than thou." — 2 St. Tr. 26.

Soon after the prorogation, as a mark of royal approbation, he was re-appointed King's Counsel, with a salary of forty pounds a year\*, and a pension of sixty pounds a year was granted to him for special services rendered to the Crown by his deceased brother Anthony and himself. By the death of this brother he had recently come into possession of Gorhambury, and other landed property, but he was still occasionally obliged to borrow money by pawning his valuables.<sup>t</sup>

In the autumn of this year Bacon paid a visit to his friend Sir Henry Saville, Provost of Eton, and on his return addressed an interesting letter to him upon the subject of education, enclosing a tract entitled "Helps to the Intellectual Powers," which strongly inculcated improved methods of study.

Soon after he wrote a letter to Lord Chancellor Ellesmere, with proposals to write a History of England; and he prepared a work, inscribed to the King, "Of the Greatness of the Kingdom of Great Britain," with the courtly motto, "Fortunatus nimum sua si bona norint."<sup>†</sup>

To the composition of such fugitive pieces he must have resorted as a recreation while he was elaborating his noble treatise on the "Advancement of Learning," which appeared in 1605, and exceeded the high expectations which had been formed of it. His fame as a philosopher and a fine writer was now for ever established.

Yet on the meeting in parliament, in November, he plunged into business with unabated ardour. When the excitement of the gunpowder plot had subsided, he once more brought forward his project for improving the law by abolishing "Wardship" and the other grievances of "Tenure in chivalry;" he made speeches as well as wrote pamphlets in support of the Union; and he was as active as ever both in debate and in committees.

But he became much soured by the reflection that he derived little reward beyond praise for all his exertions. He was so much occupied with politics while parliament was sitting, and with literature during the recess, that his private practice at the bar was extremely slender, and now in his 47th year he could hardly bear the ill luck by which his official advancement had been so long delayed.

Coke, the Attorney-General, envying the fame which Bacon had acquired in the House of Commons, and by his writings,—which he pretended to despise,—still did every thing in his power to depress him, and they had an interchange of sarcasms from time to time,

\* This salary of 40*l.* a year, with an allowance of stationary, was continued to all King's Counsel down to the reign of William IV., when it was very properly withdrawn, King's counselship becoming a *grade* in the profession of the law instead of an *office*. But the moderate salary of the Attorney General was swept away at the same time, although he was still compelled to pay the land tax upon it.

† In the Egerton Papers there is a receipt, under date August 21, 1604, from a money-lender, for "a jewell of Susanna sett with diamonds and rubys," on which he had advanced Sir Francis Bacon, Knt., 50*l.* — p. 395.

<sup>‡</sup> Works, v. 293.

although they had not again forgot the rules of propriety so far as in their famous altercation in the time of Elizabeth. But Coke's insolence increasing, and the recurrence of such a scene seeming not improbable, Bacon wrote him the following letter of expostulation :

“Mr. Attorney,

“I thought best once for all to let you know in plainness what I find of you, and what you shall find of me. You take to yourself a liberty to disgrace and disable my law, my experience, my discretion. What it pleaseth you, I pray think of me: I am one that knows both mine own wants and other men's, and it may be perchance that mine mend when others stand at a stay. And surely I may not endure in public place to be wronged without repelling the same to my best advantage to right myself. You are great, and therefore have the more enviers, which would be glad to have you paid at another's cost. Since the time I missed the Solicitor's place, the rather I think by your means, I cannot expect that you and I shall ever serve as Attorney and Solicitor together; but either to serve with another upon your remove, or to step into some other course; so as I am more free than ever I was from any occasion of unworthy conforming myself to you, more than general good manners or your particular good usage shall provoke; and if you had not been short-sighted in your own fortune, as I think, you might have had more use of me. But that tide is passed. I write not this to show my friends what a brave letter I have written to Mr. Attorney; I have none of those humours; but that I have written is to a good end, that is, to the more decent carriage of my Master's service, and to our particular better understanding one of another. This letter, if it shall be answered by you in deed and not in word, I suppose it will not be worse for us both; else it is but a few lines lost, which for a much smaller matter I would have adventured. So this being to yourself I for my part rest.”\*

Soon after this letter was written, the bar was relieved from the tyrant who had ruled over it so long with a rod of iron, by the promotion of Sir Edward Coke to the [JUNE 30, 1606.] office of Chief Justice of the Common Pleas on the death of Lord Chief Justice Gawdrey.

In contemplation of this move, Bacon had written a letter to his cousin, now Earl of Salisbury and Prime Minister, in which he says, “It is thought Mr. Attorney shall be Chief Justice of the Common Pleas; in case the Solicitor rise, I would be glad now at last to be Solicitor: chiefly because I think it would increase my practice, wherein, God blessing me a few years, I may mend my state, and so after fall to my studies at ease; whereof one is requisite for my body, and the other serveth for my mind; wherein if I shall find your Lordship's favour, I shall be more happy than I have been, which may

make me also more wise. I have small store of means about the King, and to sue myself is not fit ; and therefore I shall leave it to God, his Majesty, and your Lordship, for I must still be next the door. I thank God in these transitory things I am well resolved.”\*

Notwithstanding this affected calmness, he immediately addressed another letter to Salisbury betraying great anxiety. “ I am not ignorant how mean a thing I stand for, in desiring to come into the Solicitor’s place ; for I know well it is not the thing it hath been, — time having wrought alteration both in the profession and in the special place. Yet because I think it will increase my practice, and that it may satisfy my friends, and because I have been voiced to it, I would be glad it were done. Wherein I may say to your Lordship in the confidence of your poor kinsman, and of a man by you advanced, *Tu idem fer open, qui spem dedisti* ; for I am sure it was not possible for a man living to have received from another more significant and comfortable words of hope, your Lordship being pleased to tell me during the course of my last service, that you would raise me, and that when you had resolved to raise a man you were more careful of him than himself ; and that what you had done for me in my marriage was a benefit to me, but of no use to your Lordship, and therefore I might assure myself you would not leave me there ; — with many like speeches, which I know my duty too well to take any other hold of, than the hold of a thankful remembrance. And I acknowledge, and all the world knoweth, that your Lordship is no dealer of holy water, but noble and real ; and on my part, I am of a sure ground that I have committed nothing that may deserve alteration. And therefore my hope is, your Lordship will finish a good work, and consider that time groweth precious with me, that I am now *in vergentibus annis*. And although I know that your fortune is not to need an hundred such as I am, yet I shall be ever ready to give you my first and best fruits ; and to supply as much as in me lieth worthiness by thankfulness.”†

Bacon was again disappointed. From some intrigue not explained to us, of which his old enemy Sir Edward Coke was the author, Sir Henry Hobart was put into the office of Attorney General, and there was no vacancy in that of Solicitor. He expressed such deep resentment, that an expedient was proposed to create a vacancy by making Fleming, the Solicitor General, King’s Serjeant, with a promise of farther promotion. But difficulties and delay arising in carrying through this job, Bacon sought to quicken it by the following letter to the Lord Chancellor.

“ It may please your good Lordship : — As I conceived it to be a resolution, both with his Majesty and among your Lordships of his Council, that I should be placed Solicitor, and the Solicitor to be removed to be the King’s Serjeant ; so I must thankfully acknowledge your Lordship’s furtherance and forwardness therein ; your Lordship

being the man who first devised the mean : wherefore my humble request to your Lordship is, that you would set in with some strength to finish this your work ; which, I assure your Lordship, I desire the rather, because, being placed, I hope for many favours at last to be able to do you some little service. For as I am, your Lordship cannot use me, nor scarcely indeed know me. Not that I vainly think I shall be able to do any great matters, but certainly it will frame me to use a more industrious observance and application to such, as I honour so much as I do your Lordship, and not I hope, without some good offices, which may now and then deserve your thanks. And herewithal, good my Lord, I humbly pray your Lordship to consider, that time groweth precious with me, and that a married man is seven years older in his thoughts the first day : and therefore what a uncomfortable thing is it for me to be unsettled still ? Certainly, were it not that I think myself born to do my Sovereign service, and therefore in that station I will live and die ; otherwise for mine own private comfort, it were better for me that the King should blot me out of his book ; or that I should turn my course to endeavour to serve in some other kind, than for me to stand thus at a stop ; and to have that little reputation, which by my industry I gather, to be scattered and taken away by continual disgraces, every new man coming above me. Sure I am, I shall never have fairer promises and words from your Lordships. For I know what my services are, saving that your Lordships told me they were good, and I would believe you in a much greater matter. Were it nothing else, I hope the modesty of my suit deserveth somewhat ; for I know well the Solicitor's place is not as your Lordship left it ; time working alteration, somewhat in the profession, much more in that special place. And were it not to satisfy my wife's friends, and to get myself out of being a common gaze and a speech, I protest before God I would never speak a word for it. But to conclude, as my honourable Lady, your wife, was some mean to make me change the name of another ; so if it please you to help me to change mine own name, I can be but more and more bounden to you ; and I am much deceived, if your Lordship find not the King well inclined, and my Lord of Salisbury forward and affectionate."\*

Fleming absolutely refused to resign the Solicitor Generalship, and there was a great disinclination to force him out, after his useful, though not brilliant, services to the Crown in this and the preceding reign, — and Bacon, in despair, addressed the following letter to King James : —

" How honestly ready I have been, most gracious Sovereign, to do your Majesty humble service to the best of my power, and, in a manner, beyond my power, as I now stand, I am not so unfortunate but your Majesty knoweth. For both in the Commission of Union, the labour whereof, for men of my profession, rested most upon my hand ; and this last parliament, in the bill of the subsidy, both body and preamble ;

in the matter of the purveyance ; in the ecclesiastical petitions ; in the grievances, and the like ; as I was ever careful, and not without good success, sometimes to put forward that which was good, sometimes to keep back that which was not so good ; so your Majesty was pleased kindly to accept of my services, and to say to me, such conflicts were the wars of peace, and such victories the victories of peace ; and therefore such servants as obtained them were, by Kings that reign in peace, no less to be esteemed than services of commanders in the wars. In all which, nevertheless, I can challenge to myself no sufficiency, but that I was diligent and reasonably happy to execute those directions, which I received either immediately from your royal mouth, or from my Lord of Salisbury : at which time it pleased your Majesty also to promise and assure me, that upon the remove of the then Attorney I should not be forgotten, but brought into ordinary place. And this was after confirmed to me by many of my Lords, and towards the end of the last term the manner also in particular was spoken of : that is, that Mr. Solicitor should be made your Majesty's Serjeant, and I Solicitor ; for so it was thought best to sort with both our gifts and faculties for the good of your service ; and of this resolution both the court and country took knowledge. Neither was this any invention or project of mine own ; but moved from my Lords, and I think first from my Lord Chancellor ; whereupon resting, your Majesty well knoweth I never opened my mouth for the greater place ; though I am sure I had two circumstances that Mr. Attorney, that now is, could not allege : the one, nine years' service of the Crown ; the other, the being cousin-germain to the Lord of Salisbury, whom your Majesty esteemeth and trusteth so much. But for the less place, I conceived it was meant me. But after that Mr. Attorney Hobart was placed, I heard no more of my preferment ; but it seemed to be at a stop, to my great disgrace and discouragement. For, gracious Sovereign, if still, when the waters are stirred, another shall be put in before me, your Majesty had need work a miracle, or else I shall be still a lame man to do your Majesty service. And, therefore, my most humble suit to your Majesty is, that this, which seemed to me intended, may speedily be performed ; and, I hope, my former service shall be but as beginnings to better, when I am better strengthened : for, sure I am, no man's heart is fuller. I say not but many may have greater hearts ; but, I say, not fuller of love and duty towards your Majesty and your children, as, I hope, time will manifest against envy and detraction, if any be. To conclude, I must humbly crave pardon for my boldness, and rest, &c."\*

All parties were joyfully relieved from this embarrassment by the opportune death of Sir Lawrence Tanfield, Chief Justice of the King's Bench. Fleming was immediately appointed his successor, and, at last, on the 25th day of June, in the fifth year of the reign of King James, and in the year of grace 1607, Francis Bacon was Solicitor

\* Works, v. 302.

General to the Crown! It was an infelicity in his lot that, notwithstanding his capacity and his services, he never was promoted to any office without humiliating solicitations to ministers, favourites, and sovereigns.

The new Solicitor showed his gratitude on the meeting of parliament, by a most elaborate speech in favour of the Union, pressing into his service the stories of Alexander and Parmenio, of Abraham and Lot, and of Solon and Crœsus, and boldly combating the argument, that, if the measure were adopted, England would be overrun with Scots. He strongly pressed that, as a preliminary step, parliament would at any rate naturalise their northern fellow-subjects; but finding that this could not be carried by bill, he resorted to the expedient we have already described, of obtaining a judicial decision, that all the *Postnati* were naturalised by operation of law. He [A. D. 1608.] argued the case very learnedly in the Exchequer Chamber; and, what was probably more efficacious, he laboured the Judges out of Court to bring them to the King's wishes.\* Hobart, the Attorney General, was a shy and timid man, and the chief direction of the law business of the Crown was left to Bacon.

But the only prosecution of much consequence during the six years he was Solicitor General was that of Lord Sanquhar for [A. D. 1612.] the murder of the fencing-master, who had accidentally put out one of the northern Peer's eyes in playing at rapier and dagger. This he conducted with a becoming mixture of firmness and mildness. After clearly stating the law and the facts, he thus addressed the prisoner: — “I will conclude towards you, my Lord, that though your offence hath been great, yet your confession hath been free; and this shows that though you could not resist the tempter, yet you bear a Christian and generous mind, answerable to the noble family of which you are descended.”† The conviction and execution of this Scotch nobleman have been justly considered as reflecting great credit on the administration of justice in the reign of James.

Bacon's practice at the bar, as he expected, did increase considerably by the *prestige* of office. The most important civil case in which he was concerned was that of Sutton's Hospital, in which the validity of the noble foundation of the Charter House was established against his strenuous and able efforts.‡

A new court being established, called the “Court of the Verge of the Palace,” he was appointed Judge of it, and he opened it with a charge to the Jury, recommending a strict execution of the law against duelling.

Mr. Solicitor in the mean time steadily went on with his philosophical labours, of which he occasionally gave a taste to the world in anticipation of what was still to be expected. He now published the “Cogitata et Visa,” perhaps his most wonderful effort of subtle reason-

\* Ante. p. 201. *et seq.* 2 St. Tr. 559. Case of *Postnati*. Works, vol. iv. 319.

† 2 St. Tr. 743.

‡ 10 Co. 1.

ing, and the "De Sapientia Veterum," decidedly his most successful display of imagination and wit. Of these he sent copies to his friend Mr. Matthew, saying, " My great work\* goeth forward, and, after my manner, I alter ever when I add." He likewise published a new and greatly enlarged edition of his Essays.

But, after all, what was nearest his heart was his official advancement. He was impatient to be Attorney General, for the superior profit and dignity of that situation ; — and to secure it to himself on the next vacancy, he wrote the following letter to the King : —

" It may please your Majesty,

" Your great and princely favours towards me, in advancing me to [A. D. 1612.] place ; and, that which is to me of no less comfort, your Majesty's benign and gracious acceptation, from time to time, of my poor services, much above the merit and value of them ; hath almost brought me to an opinion that I may sooner, perchance, be wanting to myself in not asking, than find your Majesty wanting to me in any my reasonable and modest desires. And, therefore, perceiving how, at this time, preferments of law fly about mine ears, to some above me, and to some below me, I did conceive your Majesty may think it rather a kind of dulness, or want of faith, than modesty, if I should not come with my pitcher to Jacob's well, as others do. Wherein I shall propound to your Majesty that which tendeth not so much to the raising of my fortune, as to the settling of my mind ; being sometimes assailed with this cogitation, that by reason of my slowness to see and apprehend sudden occasions, keeping in one plain course of painful service, I may, *in fine dierum*, be in danger to be neglected, and forgotten ; and if that should be, then were it much better for me now, while I stand in your Majesty's good opinion, though unworthy, and have some little reputation in the world, to give over the course I am in, and to make proof to do you some honour by my pen, either by writing some faithful narrative of your happy, though not untraded times ; or by recompling your laws, which, I perceive, your Majesty laboureth with ; and hath in your head, as Jupiter had Pallas, or some other the like work, for without some endeavour to do you honour, I would not live ; than to spend my wits and time in this laborious place wherein I now serve ; if it shall be deprived of those outward ornaments which it was wont to have, in respect of an assured succession to some place of more dignity and rest, which seemeth now to be an hope altogether casual, if not wholly intercepted. Wherefore, not to hold your Majesty long, my humble suit to your Majesty is that, than the which I cannot well go lower ; which is, that I may obtain your royal promise to succeed, if I live, into the Attorney's place, whensoever it shall be void ; it being but the natural and immediate step and rise which the place I now hold hath ever, in sort, made claim to, and almost never failed of. In this suit I make no

\* *Novum Organum.*

friends but to your Majesty, rely upon no other motive but your grace, nor any other assurance but your word; whereof I had good experience, when I came to the Solicitor's place, that it was like to the two great lights, which in their motions, are never retrograde. So with my best prayers for your Majesty's happiness, I rest.”\*

James admitted him to an audience, and promised, on the word of a King, that his request should be granted. Some time after, Hobart fell dangerously ill, upon which Bacon wrote to remind his Majesty of his promise.

“It may please your most excellent Majesty,

“I do understand by some of my good friends, to my great comfort, that your Majesty hath in mind your Majesty's royal promise, which to me is *anchora spei*, touching the Attorney's place. I hope Mr. Attorney shall do well. I thank God I wish no man's death, nor much mine own life, more than to do your Majesty's service. For I account my life the accident, and my duty the substance. For this I will be bold to say, if it please God that I ever serve your Majesty in the Attorney's place, I have known an Attorney Coke, and an Attorney Hobart, both worthy men, and far above myself; but if I should not find a middle way between their two dispositions and carriages, I should not satisfy myself. But these things are far or near, as it shall please God. Meanwhile, I most humbly pray your Majesty to accept my sacrifice of thanksgiving for your gracious favour. God preserve your Majesty. I ever remain, —.”†

If he was sincere in his hope that “Mr. Attorney should do well,” he was gratified by Sir Henry's entire recovery.

Nevertheless, on the death of Fleming, the object was, with a little intriguing, accomplished. Bacon immediately wrote the following letter to the King: —

“It may please your most excellent Majesty,

“Having understood of the death of the Lord Chief Justice, I do ground in all humbleness as an assured hope, that your Majesty will not think of any other but your poor servants, your Attorney and your Solicitor, one of them for that place. Else we shall be like Noah's dove, not knowing where to rest our feet. For the places of rest after the extreme painful places wherein we serve, have used to be either the Lord Chancellor's place, or the Mastership of the Rolls, or the places of Chief Justices; whereof for the first I could be almost loth to live to see this worthy councillor fail.‡ The Mastership of the Rolls is blocked with a reversion.§ My Lord Coke is likely to outlive us both. So as if this turn fail, I for my part know not whither to look. I have served your Majesty above a prentice-

\* Works, v. 322.

† Ibid. 323.

‡ Ellesmere.

§ Lord Kinlosse to be succeeded by Sir Julius Caesar.

hood full seven years and more as your Solicitor, which is, I think, one of the painfullest places in your kingdom, especially as my employments have been ; and God hath brought mine own years to fifty-two, which I think is older than ever any Solicitor continued unpreferred. My suit is principally that you would remove Mr. Attorney to the place. If he refuse, then I hope your Majesty will seek no farther than myself, that I may at last, out of your Majesty's grace and favour, step forwards to a place either of more comfort or more ease. Besides, how necessary it is for your Majesty to strengthen your service amongst the Judges by a Chief Justice which is sure to your prerogative, your Majesty knoweth. Therefore I cease farther to trouble your Majesty, humbly craving pardon, and relying wholly on your goodness and remembrance, and resting in all true humbleness, &c."\*

The King was ready to appoint either the Attorney or Solicitor ; but Hobart was unwilling to resign his present office, which, thrice as profitable as that offered him and held by as good a tenure, and Bacon himself, notwithstanding what he said about the worthy Chancellor Ellesmere, was eager for the Great Seal. He therefore resorted to a most masterly stroke of policy,—to remove Coke to the King's Bench, and to make a vacancy in the office of Chief Justice of the Common Pleas, which, from its superior profit as well as quiet, Hobart was very willing to accept. With this view he drew up and submitted to the King —

" Reasons why it should be exceeding much for his Majesty's service to remove the Lord Coke from the place he now holdeth to be Chief Justice of England, and the Attorney to succeed him, and the Solicitor the Attorney.

" First, It will strengthen the King's causes greatly amongst the Judges, for both my Lord Coke will think himself near a Privy Councillor's place, and thereupon turn obsequious, and the Attorney General, a new man and a grave person in a Judge's place, will come in well to the other, and hold him hard to it, not without emulation between them who shall please the King best.

" Secondly, The Attorney General sorteth not so well with his present place, being a man timid and scrupulous, both in parliament and other business, and one, in a word, that was made fit for the late Lord Treasurer's seat, which was to do little with much formality and protestation : whereas the *new Solicitor, going more roundly to work, and being of a quicker and more earnest temper and more effectual in that he dealeth in*, is like to recover that strength to the King's prerogative which it hath had in times past, and which is due unto it. And for that purpose there must be brought to be Solicitor some man of courage and speech, and a grounded lawyer ; which done, his Majesty will speedily find a marvellous change in his business. For it is not to purpose for the judges to stand well disposed,

except the King's counsel, which is the active and moving part, put the Judges well to it; for in a weapon, what is a back without an edge?

“Thirdly, The King shall continue and add reputation to the Attorney's and Solicitor's place by this orderly advancement of them; which two places are the champion's places for his rights and prerogative, and being stripped of their expectations and successions to great place, will wax vile, and then his Majesty's prerogative goeth down the wind. Besides this remove of my Lord Coke to a place of less profit, though it be with his will, yet will be thought abroad a kind of discipline to him for opposing himself in the King's causes, the example whereof will contain others in more awe.”\*

This plan was immediately adopted: Hobart, the Attorney General, became Chief Justice of the Common Pleas, and [Oct. 27, 1613.] Bacon Attorney General.

Soon after, the new Chief Justice of the King's Bench meeting the new Attorney General, said to him, “Mr. Attorney, this is all your doing: it is you that has made this stir.” Mr. Attorney answered, “Ah, my Lord, your Lordship all this while hath grown in breadth; you must needs now grow in height, or else you would be a monster.”† The rivalry between them, as we shall see, went on with fresh animosity.

Bacon might now be considered the principal political adviser of the Crown. Salisbury was dead; Carr, from a raw Scotch lad to whom James taught the rudiments of the Latin [A. D. 1614.] tongue, had become Earl of Somerset, Lord Chamberlain, the King's prime favourite, the dispenser of the patronage of the Crown, and a person universally courted and flattered; but so contemptible was his understanding, and such was his incapacity for business, that in affairs of state James was obliged to resort to other councillors. Bacon, though not by any means disdaining to avail himself of the protection of a favourite, (as he had shown in the time of Essex, and as he speedily again showed on the rise of Villiers,) had never much connection with Somerset,—perhaps from not being able to make himself appreciated by such a simpleton, or perhaps from foreseeing that his influence must be fleeting. The Attorney General was in direct communication with the King, and for a considerable time had great influence in his councils. His first advice was constitutional and wise,—to discontinue the irregular expedients which had been resorted to for some years for raising money, and to ask for a supply from a new parliament. But he overrated the influence he should have in the House of Commons, and he was not sufficiently aware of the growing national discontent.

Being re-elected since his last appointment, he was about to take his seat, when a Mr. T. Duncombe, famous for adventurous motions, but rather a popular character, raised the question — “Whether the

\* Works, vi. 71.

† Lord Bacon's *Apothegms, or Jests Book.* Works, vol. ii. 421.

Attorney General might be elected, in respect there was no precedent that such an officer of the Crown could be chosen member of that House?\* Bacon's friends answered, that Sir Henry Hobart had been allowed to sit while Attorney General; but so much do opinions on such subjects vary from age to age, that the House then agreed that this case did not apply, as he was a member of the House when he was made Attorney General, and therefore could not be unseated.

Sir Roger Owen argued that no Attorney General was ever chosen, nor anciently any Privy Councillor, nor any that took livery of the King. He relied on the authority of Sir Thomas More, who after he had been Speaker and Chancellor, said, — “that the eye of a King's courtier can endure no colours but one, the King's livery hindering their sight.” He compared those holding office at the King's pleasure, to “a cloud gilded by the rays of the sun, and to brass coin which the King's stamp makes current.” Sir John Saville moved “that those Privy Councillors who had got seats might stay for that time, but Mr. Attorney should not serve in that House.”

After a committee to search for precedents, it was resolved that “Mr. Attorney General Bacon remain in the House for this parliament, but never any Attorney General to serve in the Lower House in future.” The right of the Attorney General to sit as a member of the House of Commons has not since been seriously questioned. As he is summoned according to immemorial usage to advise the House of Lords, and ought to return his writ and to take his place on the wool-sack, it is easy to conceive that conflicting duties might be cast upon him; but his attendance on the Lords is dispensed with, except in Peerage cases, and it has been found much more convenient that he should be allowed to act as law adviser to the House of Commons, which might otherwise be *inops concilii*.

Mr. Attorney made his first and only speech in this parliament on the supply. He began by observing, “that since they had been pleased to retain him there, he owed them the best offices he could, and if they had dismissed him his wishes would have been still with them.” He then most elaborately pointed out the King's wants and the necessity for supplying them, ridiculing the notion that had gone abroad that a confederacy had been formed to control the free will of the House, and again bringing out his favourite and unlucky quotation, — “Dulcis tractus pari jugo.”

But a majority were much more inclined to inquire into monopolies and other grievances, — and parliament was abruptly dissolved.

After the parliamentary effort he had made to obtain a supply, Bacon seems to have thought that all expedients by which the Exchequer might be filled were justifiable.

The most productive of these was the demanding of “Benevolences.” Letters were written to the sheriffs of counties and the magistrates of corporations, calling on the King's loving subjects to contri-

bute to his necessities. The contributions were supposed to be voluntary, but were in reality compulsory, for all who refused were denounced and treated as disloyal. Oliver St. John having written a letter to the Mayor of Marlborough, representing that this "Benevolence" was contrary to law, and that the magistrates ought not to assist in collecting it, the Attorney General prosecuted him in the Star Chamber for a libel. In his speech he strenuously defended this mode of raising money; and for the reason that "it is fit to burn incense where ill odours have been cast," he delivered an elaborate panegyric on the government of King James, whom he described as a constant protector of the liberties, laws, and customs of the kingdom, maintaining religion not only with sceptre and sword, but by his pen. The defendant was sentenced to pay a fine of 5000*l.*, to be imprisoned during the King's pleasure, and to make a written submission. Bacon's indiscriminate admirers contend that he is exempt from all blame in this proceeding, because the Judges declared that the levying of "Benevolences" was not contrary to any statute, and Lord Chancellor Ellesmere solemnly expressed a wish that passing sentence on Mr. St. John might be "his last act of judicial duty;" but there could not be a doubt that raising "Benevolences" was in substance levying an aid without authority of parliament, and that the person was morally responsible for the misconduct of the Judges who put them in a position where they must either pervert the law or forfeit their offices.

The blame now imputable to Bacon, however, was light indeed compared with what he incurred in a case which soon followed. Fine and imprisonment having no effect of quelling the rising murmurs of the people, it was resolved to make a more dreadful example, and Peacham, a clergyman of Somersetshire, between sixty and seventy years of age, was selected for the victim. On breaking into his study, a sermon was there found which he had never preached, nor intended to preach, nor shown to any human being, but which contained some passages encouraging the people to resist tyranny. He was immediately arrested, and a resolution was taken to prosecute him for high treason. But Mr. Attorney, who is alone responsible for this atrocious proceeding, anticipated considerable difficulties both in law and fact before the poor old parson could be subjected to a cruel and ignominious death. He therefore first began by tampering with the Judges of the King's Bench, to fix them by an extra-judicial opinion. His plan was to assail them separately, and therefore he skilfully called in his subordinates, — assigning Justice Dodderidge to the Solicitor General, Justice Crook to Serjeant Montague, and Justice Houghton to Serjeant Crew, — and directing these emissaries that "they should not in any case make any doubt to the Judges, — as if they mistrusted they would not deliver any opinion apart, — but should speak resolutely to them." The Chief Justice he reserved for his own management, — "not being wholly without hope," says he, "that my Lord Coke himself, when I have in some dark manner put him in doubt that he shall be left alone, will not continue singular." The puisnes

were pliant. The Chief at first affirmed, that “such auricular taking of opinions was not according to the custom of this realm;” but at last yielded to Bacon’s remonstrance, that “though Judges might make a suit to be spared for their opinion till they had spoken with their brethren, if the King upon his own princely judgment, for reason of estate, should think fit to have it otherwise, there was no declining—nay, that it touched on a violation of their oath, which was, to counsel the King whether it were jointly or separately.”\*

Still, without some farther evidence, a mere sermon found in a study seemed rather a slender overt act to be submitted to a jury of compassing the king’s death. To supply the deficiency, it was resolved to subject Peacham to the rack. Interrogatories were prepared to draw a confession from him of his object and of his accomplices in writing the sermon, and “upon these interrogatories he was examined before torture, between torture, and after torture.” These are the words of Bacon, and I relate with horror that he was himself present at scenes equalling everything that we have read or can imagine of the inquisition at Venice. The tone in which he describes some of them to the King, though he tries to talk bravely, shows that he was ashamed of the work in which he was engaged, and that he inwardly condemned what some of his admirers now defend :

“ It may please your Excellent Majesty,

“ It grieveth me exceedingly, that your Majesty should be so much troubled with this matter of Peacham, whose raging devil seemeth to be turned into a dumb devil. But although we are driven to make our way through questions, which I wish were otherwise, yet I hope well the end will be good. But then every man must put his *helping hand*; for else I must say to your Majesty in this and the like cases, as St. Paul said to the Centurion, when some of the mariners had an eye to the cock-boat, *Except these stay in the ship, ye cannot be safe.* I find in my Lords, great and worthy care of the business: and for my part, I hold my opinion, and am strengthened in it by some records that I have found. God preserve your Majesty !”

It is quite clear that several present had expressed an opinion against going further, and that Bacon himself had not much confidence in his “records.” He still persisted, however, for the King had become very earnest about it,—and thus he writes to his Majesty (after describing Peacham’s refusal to answer certain points), “I hold it fit that myself and my fellows go to the Tower, and so I purpose to examine him upon these points and some others. I think also, it were not amiss to make a false fire†, as if all things were ready for his going down to his trial, and that he were upon the very point of being carried down, to see what will work with him.”§ To the Tower he went accordingly, but neither old nor new invented torture

\* Letters to King. Works, vol. v. 338. 343.

† Does this mean to stretch the rack, like Lord Chancellor Wriothesley ?

‡ A new species of torture not to be found in his “ Records.”

§ Works, v. 354.

could succeed. "I send," says he, "your Majesty a copy of our last examination of Peacham, whereby your Majesty may perceive that this miscreant wretch goeth back from all. He never deceived me, for when others had hopes of discovery, and thought time well spent that way, I told your Majesty *percutitibis mille figuræ*, and that he did but now turn himself into divers shapes to save or delay his punishment."

The old man, with dislocated joints but unbroken spirit, was brought to trial at the summer assizes at Taunton, before the Chief Baron and Sir Henry Montague. Bacon showed some remnant of virtue by being too much ashamed to attend in person. He sent in his stead Crew, the King's Serjeant, and Yelverton, the Solicitor-General, who conducted themselves to his entire satisfaction,—for without law or fact they obtained a conviction. The case, however, was so infamous, that even the Judges who presided at the trial expressed a doubt whether the offence amounted to high treason, and there was such a feeling of indignation excited throughout the country, that the Government did not venture to carry the sentence into execution. Peacham was allowed to languish in Taunton gaol, till in the following year death relieved him from his sufferings.

It is to confound the sacred distinctions of right and wrong to attempt to defend the conduct of Bacon in this affair, or to palliate its enormity. He knew that Peacham's offence did not amount to high treason. He knew as well as the Judges, who so decided a few years after, on the assassination of the Duke of Buckingham by Felton, that the law of England did not sanction torture to extort confession. If the law had been with him, he would have disgraced his character and his profession by the low subterfuges to which he resorted for the purposes of trepanning the Judges, and by directing himself the stretching of the rack, and administering his questions amidst the agonizing shrieks of the fainting victim. But Lord Chancellor Ellesmere, from age and infirmity, could not much longer hold the Seals, and Bacon was resolved to be his successor.

To strengthen his interest he now assiduously cultivated George Villiers, the new favourite, who, he had the sagacity to discover from the commencement of his career as Cup-bearer to the King, was sure to gain and to preserve a great ascendancy at Court. Notwithstanding his own mature age and high station, he received the undivided page into his intimacy, and condescended even to manage his private affairs. There are stronger contrasts of light and shade in the character of Bacon than probably of any other man who ever lived. Though at this time seeming devoted exclusively to his own aggrandisement, yet as Villiers was rising in favour,—had high honours and offices conferred upon him,—and was evidently destined to supreme power in the state,—the selfish and sordid candidate for his patronage took infinite pain in instructing him how to govern for the glory and happiness of the country. His "Advice to Sir George Villiers"\*\* is a

\* Works, vol. iii. 429.

most noble composition, and may now be perused with great advantage by every English statesman. It is even written with freedom and manliness.—“You are a new-risen star, and the eyes of all men are upon you; let not your own negligence make you fall like a meteor.” He divides his subject into eight heads:—1. Religion and the Church. 2. Justice and the laws. 3. The Council and the great officers of the kingdom. 4. Foreign negotiations and embassies. 5. War, the navy, and ports. 6. Trade at home. 7. Colonies. 8. The King’s court. I am naturally most struck by his observations respecting justice and the laws, which show that he himself sinned against knowledge.—“Let no arbitrary power be intruded; the people of this kingdom love the laws thereof, and nothing will oblige them more than a confidence of the free enjoying of them. What the nobles upon an occasion once said in parliament, *Nolumus leges Angliae mutare*, is imprinted in the hearts of all the people. But because the life of the laws lies in the due execution and administration of them, let your eye be in the first place upon the choice of good Judges. These properties had they need to be furnished with,—to be learned in their profession, patient in hearing, prudent in governing, powerful in their elocution to persuade and satisfy both the parties and hearers, just in their judgment, — and, to sum up all, they must have these three attributes,—they must be men of courage, fearing God and hating covetousness;—an ignorant man cannot, a coward dares not, be a good Judge.” “By no means be you persuaded to interpose yourself, either by word or letter, in any cause depending in any Court of justice. If any sue to be made a judge, for my own part I should suspect him; but if either directly or indirectly he should bargain for a place of judicature, let him be rejected with shame:—*Vendere jure potest, emerat ille prius.*”—We shall ere long see how these maxims were observed between the preceptor and pupil.

Lord Ellesmere about this time had an illness of great severity from [JAN. 1516.] which he was not expected to recover, and Bacon, lingering longer than was expected, Bacon pretty plainly intimates to the King that he ought to be superseded:—“My Lord Chancellor’s sickness falleth out *duro tempore*. I have always known him a wise man and of just elevation for monarchy, but your Majesty’s service

\* Specimens:—“Because I knew your Majesty would be glad to hear how it is with my Lord Chancellor, and that it pleased him, out of his ancient and great love for me, which many times in sickness appeareth most, to admit me to a great deal of speech with him this afternoon, which during these three days he hath scarcely done to any, I thought it would be pleasing to your Majesty to be certified how I found him.” Jan. 29. 1616. “I spoke to him on Sunday, at what time I found him in bed, but his spirits strong.” Jan. 31. 1616. “My Lord Chancellor sent for me to speak with me this morning. I perceive he hath now that *signum sanitatis* as to feel better his former weakness.” Feb. 7, 1616.

must not be mortal. And if you love him, as your Majesty hath now of late purchased many hearts by depressing the wicked, so God doth minister unto you a counterpart to do the like *by raising the honest.*"\*

A few days after he speaks out more distinctly, "Your worthy Chancellor I fear goeth his last day. God hath hitherto used to weed out such servants as grew not fit for your Majesty; but now he hath gathered to himself one of the choicer plants, a true sage or *salvia* out of your garden; but your Majesty's service must not be mortal.

"Upon this heavy accident, I pray your Majesty in all humbleness and sincerity to give me leave to use a few words. I must never forget when I moved your Majesty for the Attorney's place, that it was your own sole act, and not my Lord of Somerset's, who, when he knew your Majesty had resolved it, thrust himself into the business to gain thanks; and therefore I have no reason to pray to saints.

"I shall now again make oblation to your Majesty,—first of my heart,—then of my service,—thirdly, of my place of Attorney, which I think is honestly worth 6000*l.* per annum,†—and, fourthly, of my

\* Feb. 9. 1616.

† Almost the whole of this income must have arisen from fees. The following were the salaries of the law officers of the Crown at this time:—

	£	s.	d.
Attorney General	81	6	8
Solicitor General	70	0	0
King's Serjeant	41	6	10
King's Advocate	20	0	0

The salaries of the Judges show that they must have depended a good deal on fees:—

{ Sir E. Coke, Ld. C. J. of England	224	19	9
	33	6	8
<hr/>			
{ Puisne Judges of K. B. and C. P.	258	6	5
	33	6	8
<hr/>			
{ Besides circuits	188	6	8
	33	6	8
<hr/>			
C. J. of C. P.	221	13	4
Chief Baron	194	19	9
Puisne Barons	188	6	0
Judge on Norfolk circuit	133	6	8
	12	6	81

The usual amount of *honoraryes* to counsel in this reign I have not been able to ascertain. From an entry in the parish books of St. Margaret's, Westminster, it appears that in the reign of Edward IV. they paid "Roger Fyppott, learned in the law, for his counsel, 3*s.* 8*d.*, with 4*d.* for his dinner."

In the reign of Henry VII. Serjeant Yaxley was at the head of the bar, and used to go special on different circuits. From the following very curious retainer it appears that he was to attend the assizes at York, Nottingham, and Derby, and

<sup>1</sup> From Abstract of Revenue, Temp. Jac. I.

place in the Star Chamber, which is worth 1000*l.* per annum, *and, with the favour and countenance of a Chancellor, much more.*" He then urges his father's merits, and reminds the King that the Chancellor's place was ever conferred on some law officer, and never on a Judge, — instancing *Audley*, from King's Serjeant; his own father, from Attorney of the Wards; *Bromley*, from Solicitor General; *Puckering*, from Queen's Serjeant; *Egerton*, from Master of the Rolls, having lately been Attorney General. Now he comes to disparage his rivals. "If you like my Lord Coke, this will follow, — first, your Majesty shall put an overruling nature into an overruling place, which may breed an extreme; — next, you shall blunt his industries in matter of your finances, which seemeth to aim at another place; — and, lastly, popular men are no sure mounters for your Majesty's saddle. If you take my Lord Hobart, you shall have a Judge at the upper end of your Council Board and another at the Lower end, whereby your Majesty will find your prerogative pent; for though there should be emulation between them, yet, as legists, they will agree in magnifying that wherein they are best: he is no statesman, but an economist wholly for himself, so as your Majesty, more than an outward form, will find little help in him for the business. If you will take my Lord of Canterbury, I will say no more but the Chancellor's place requires a whole man; and to have both jurisdictions, spiritual and temporal in that height, is fit but for a King.

"For myself, I can only present your Majesty with *gloria in obse-*

*plaud as many causes as he should be required by his client, Sir Robert Plompton, at each place, — for all which he was to receive only 40 marks, besides his charges in the assize towns.*

"This bill indentured at London the 18<sup>th</sup> day of July, the 16<sup>th</sup> years of the reigne of King Henry the 7<sup>th</sup>, witnesseth that John Yaxley, Sergent at the Law, shall be at the next Assizes to be holden at York, Nottin. and Derb, if they be holden and kept, and their to be of council with Sir Robert Plompton, knight, such assizes and action as the said Sir Robert shall require the said John Yaxley, for the which premisses, as well for his costs and his labour, John Pulan, Gentleman, bindeth him by these presents to content and pay to the said John Yaxley 40 marks<sup>l</sup> sterl<sup>g</sup> at the feast of the Nativetie of our Lady next coming, or within eight days next following, with 5<sup>l</sup> paid beforehand, parcell of painment of the said 40 marks. Provided alway that if the said John Yaxley have knowledg and warning only to cum to Nott. and Derby, then the said John Yaxley is agreead by these presents to take onely xv<sup>l</sup> besides the said 5<sup>l</sup> aforesaid. Provided alwaies that if the said John Yaxley have knowledg and warning to take no labour in this matter, then he to reteine and hold the said 5<sup>l</sup> ressived for his good will and labor. In witnessse herof the said John Yaxley, seriant, to the part of this indenture remaining with the said John Pulan have put his seale the day and yeare abovewritten. Provided also that the said Sir Robert Plompton shall beare the charges of the said John Yaxley, as well at York as Nottingham and Derby, and also to content and pay the said money to the sayd John Yaxley comed to the said Assizes att Nott. Derb. and York.

"JOHN YAXLEY."

*Plompton Correspondence* by Camden Society, 152. See also pp. 53. 93. 150.

*quio.* Yet I dare promise, that if I sit in that place, your business shall not make such short turns upon you as it doth; but when a direction is once given, it shall be pursued and performed, and your Majesty shall only be troubled with the true care of a King, which is to think what you would have done in chief, and not how, for the passages.

“I do presume also, in respect of my father’s memory, and that I have been always gracious in the lower House, I have some interest in the gentlemen of England, and shall be able to do some effect in rectifying that body of parliament men, which is *cardo rerum*. For let me tell your Majesty, that that part of the Chancellor’s place, which is to judge in Equity between party and party, that same *regnum judiciale*, which since my father’s time is but too much enlarged, concerneth your Majesty least, more than the acquitting of your conscience for justice: but it is the other parts of a moderator amongst your Council, of an overseer of your Judges, of a planter of fit justices and governors in the country, that importeth your affairs and these times most.

“To conclude, if I were the man I would be, I should hope that as your Majesty hath of late won hearts by depressing, you should in this lose no hearts by advancing; for I see your people can better skill of *concretum* than *abstractum*, and that the waves of their affections flow rather after persons than things; so that acts of this nature, if this were one, do more good than twenty bills of grace. If God call my Lord, the warrants and commissions which are requisite for the taking of the Seal, and for the working with it, and for the reviving of warrants under his hand which die with him, and the like, shall be in readiness. And in this, time presseth more because it is the end of a term, and almost the beginning of the circuits; so that the Seal cannot stand still; but this may be done as heretofore by commission, till your Majesty hath resolved of an officer. God ever preserve your Majesty!\*\*

Is not this something very much like “suing to be made a Judge, and bargaining for a place of judicature?” **MEANEST OF MANKIND!!!** A touch of *vanity* even is to be found in this composition,—a quality he hardly ever betrays elsewhere, although he had an inward consciousness of his extraordinary powers. Boasting of his great influence in the lower House, little did he think that when parliament should next meet, both Houses would unanimously agree in prosecuting and punishing him.

But, alas! Ellesmere rallied, and in three days Bacon was obliged hypocritically to write, “I do find, *God be thanked*, a sensible amendment in my Lord Chancellor. I was with him yesterday in private conference about half an hour, and this day again at such time as he did seal, which he endured well almost the space of an hour, though the vapour of wax be offensive to him. But whoever thinketh his disease is but melancholy, he maketh no true judgment of it; for it is

plainly a formed and deep cough, with a pectoral surcharge; so that at times he doth almost *animam agere*. I forbear to advertise your Majesty of the care I took to have commissions in readiness, because Mr. Secretary Luke hath let me understand he signified as much to your Majesty; but *I hope there shall be no use for them at this time.*"\*

He next seems to have tried to prevail upon the old Chancellor to resign in his favour. But James would put no constraint on the inclinations of Ellesmere; and Bacon, to secure his succession when a vacancy should happen, now resorted to the expedient of being made a Privy Councillor,—which was pretty much the same as in modern speech being admitted to a seat in the Cabinet. He writes to Villiers, “My Lord Chancellor’s health growing with the days, and his resignation being an uncertainty, I would be glad you went on with my first motion, my swearing Privy Councillor. Tho’ I desire not so much to make myself more sure of the other, and to put it past competition, for herein I rest wholly upon the King and your excellent self, but because I find hourly that I need this strength in his Majesty’s service, both for my better warrant and satisfaction of my conscience, that I deal not in things above my vocation, and for my better countenance and prevailing where his Majesty’s service is under any pretext opposed, I would it were despatched . . . . I sent a pretty while since a paper to Mr. John Murray, which was indeed a little remembrance of some things past concerning my honest and faithful services to his Majesty;—not by way of boasting,—from which I am far,—but as tokens of my studying his service uprightly and carefully. If you be pleased to call for the paper which is with Mr. John Murray, and to find a fit time that his Majesty may cast an eye upon it, I think it will do no hurt; and I have written to Mr. Murray to deliver the paper if you call for it.”† To such minute artifices did he descend for effecting his object.

After some interval, and renewed solicitations, the King gave him his choice, either that he should have an express promise to succeed to the Great Seal, or that he should forthwith be sworn of the Privy Council. The bare promise, he thought, would not much improve his chance, while a seat at the council table could not fail to place him above competition. *More suo*, he makes his election in a letter to Villiers to be shown to James. “The King giveth me a noble choice, and your are the man my heart ever told me your were. Ambition would draw me to the latter part of the choice: but in respect *my hearty wishes that my Lord Chancellor may live long*, and the small hopes I have that I shall live long myself, and, above all, because, I see his Majesty’s service daily and instantly bleedeth; towards which I persuade myself (vainly, perhaps, but yet in mine own thoughts firmly and constantly,) that I shall give, when I am of the table, some effectual furtherance,—I do accept of the former, to be Councillor for the present, and to give over pleading at the bar;

\* Feb. 15. 1616. Works, v. 374.

† Feb. 21. 1616. Works, v. 377.

let other matter rest upon my proof and his Majesty's pleasure, and the accidents of time."\*

In consequence of Villier's representation the King consented; and on the 9th of June Bacon was sworn of the Privy Council, and took his place at the table,—it having been, at his own request, previously arranged that, with permission to give advice at chambers to those who might consult him, he should cease to plead as [A. D. 1616.] an advocate at the bar in private causes,—unless some weighty matter might arise in which he was to be allowed to be engaged under the King's express licence.

Having thus got rid of his private practice, he applied his leisure to a most noble account, dedicating himself by turns to the prosecution of his philosophical pursuits, and to the improvement of the institutions of his country. The *Novum Organum* made great progress, though it was not ready to see the light for some years; and he actually published "A Proposition to his Majesty touching the Compiling and Amendment of the Laws of England."† He commences this treatise with the following dignified address. "Your Majesty, of your favour, having made me Privy Councillor, and continuing me in the place of your Attorney General, which is more than was three hundred years before, I do not understand it to be that, by putting off the dealing in causes between party and party I should keep holyday the more, but that I should dedicate my time to your service with less distraction. Wherefore, in this plentiful accession of time which I have now gained, I take it to be my duty, not only to speed your commandments and the business of my place, but to meditate and ex cogitate of myself wherein I may best by my travels derive your virtues to the good of your people, and return their thanks and increase of love to you again. And after I had thought of many things, I could find in my judgment none more proper for your Majesty as a master, nor for me as a workman, than the reducing and recompiling of the laws of England."

In this scheme he displays great caution and wisdom; not venturing to codify the common law, but contenting himself with reforming the statute-book, and extracting from the jumble of Reports a series of sound and consistent decisions.‡ It is curious to reflect that his exhortations in favour of law reform produced no fruit till the Republic was established under Cromwell, and that the subject was entirely neglected from the Restoration to our own times. Much has been done in the spirit which he recommends; and in what remains to be done he will be found our safest guide.

Bacon was called away from all such speculations to conduct the prosecutions which arose out of the murder of Sir Thomas Overbury.

\* June 3. 1616. Works, v. 420.

† Works, iv. 366.

‡ In this address, Bacon displays his great anxiety about his reputation as a lawyer. "And I do assure your Majesty, I am in good hope that when Sir Edward Coke's 'Reports' and my 'Rules and Decisions' shall come to posterity, there will be, whatsoever is now thought, question who was the greatest lawyer."

An attempt was made to satisfy the public by the punishment of the inferior agents in this black transaction ; but the guilt of the Somersets became so notorious, and the cry for justice was so loud against them, that the King found it necessary to have these noble culprits arrested, and brought to trial before the Court of the Lord High Steward.

I am sorry to say that Bacon shared in the disgrace incurred by James and all his ministers in that mysterious affair. He prepared the questions to be put to the Judges prior to the trial, and arranged the course to be adopted "if Somerset should break forth in any speech taxing the King ;" and it is quite clear, that though the inferior agents employed in the murder were to be sacrificed, he was in collusion with the King to spare the two great offenders who had planned it, notwithstanding James's celebrated imprecation on himself and his posterity if he should impede the course of justice. Bacon has been praised for the mild manner in which he stated the case against Somerset ; but this was in performance of his promise, "It shall be my care so to moderate the manner of charging him as it might make him not odious beyond the extent of mercy."\* The disgraceful pardon Bacon himself, as Attorney General, prepared.

Coke, the Chief Justice, had now rendered himself very obnoxious to the Court by his activity in detecting and prosecuting the murderers of Overbury, and by the part he had taken in the dispute about Injunctions and the affair of Commandams, or staying suits *Rege inconsulto*, which will be found circumstantially detailed in the Life of Lord Ellesmere.† Bacon having at last gained an ascendancy over him, was determined to show him no quarter. Little was to be apprehended from his rivalry in the competition for the Great Seal, but there still rested in Bacon's mind a rankling recol-

\* April 28. 1616. Works, v. 395.

† How zealously Bacon laboured in the affair, and how he did his best permanently to pervert the due administration of justice in this country, by establishing the power of the Sovereign to interfere in private causes, strikingly appears from his letter to James, giving an account of the manner in which he had tried on this occasion to frighten the Judges. "Sir, — I do perceive that I have not only stopped, but almost turned the stream, and I see how things cool by this, that the Judges who were wont to call so hotly upon the business, when they had heard, of themselves took a fortnight to advise what they will do. Yet because the times are as they are, I could wish in all humbleness that your Majesty would remember and renew your former commandment, which you gave my Lord Chief Justice in Michaelmas Term, which was that after he had heard your Attorney, he should forbear further proceeding till he had spoke with your Majesty. This writ (viz. a letter from the King forbidding the Court to proceed *Rege inconsulto*) is a mean provided by the ancient law of England to bring any cause that may concern your Majesty in profit or power from the ordinary benches, to be tried and judged before your Chancellor of England by the ordinary and legal part of his power ; and your Majesty knoweth your Chancellor is ever a principal counsellor and instrument of monarchy, of immediate dependence upon the King, and therefore like to be a safe and tender guardian of the royal rights." — Jan. 27. 1616. Works, v. 366. Bacon knew that he was misstating the law — to please the King — and to show that by appointing himself Chancellor, prerogative might be exercised without control.

lection of unavenged insults. After the conviction of Somerset, all manner of titles and offices were conferred on the new favourite, who was ostensibly the King's servant, but really ruled the King and the kingdom. Bacon was on the best possible footing with him, and they cordially entered into the schemes of each other.\*

About this time Villiers had a personal quarrel with Coke about the appointment to a lucrative office in the Court of King's Bench, which he wished to obtain for a dependant. Bacon, of course, did all he could to assist in this job.† Coke, after some hesitation, at last peremptorily resisted the encroachment on his patronage,—and his dismissal was resolved upon. The difficulty was to find a pretext for removing him. Although the Judges all held during pleasure, the power of cashiering them had hitherto been very sparingly exercised, and never except upon some charge of misconduct. Coke was the greatest master of the Common Law that ever had appeared in England. Notwithstanding the arrogance with which he was chargeable when at the bar, he had given the highest satisfaction to the profession and the public since his elevation to the Bench. His opposition to the equitable jurisdiction of the Lord Chancellor though unjustifiable, was generally popular, and all mankind (with the exception of the King and the most slavish of the ministers) approved of the noble stand he had made for judicial independence in Peacham's case and the affair of the "commendams," and he had been rapturously applauded for his energy on the discovery of the murder of Sir Thomas Overbury,—in posting off to Theobald's to arrest Somerset with his own hands. The expedient to which Bacon resorted shows, that it is no more possible "to hate" than "to love and be wise." The frivolous, unfounded, preposterous, ludicrous charge brought against Coke was, that in his Reports of decided cases he had introduced several things in derogation of the royal prerogative.‡ On no better ground, in the month of June, 1616, though not

\* "Your Majesty certainly hath found out and chosen a safe nature, a capable man, an honest will, generous and noble affections, and a courage well lodged, and one that I know loveth your Majesty unfeignedly, and admireth you as much as is in a man to admire his Sovereign upon earth."—*Bacon to James*. Yet no human being ever more thoroughly despised another than Buckingham his "Dad."

† Bacon gives Villiers an amusing account of a conversation on this subject with Coke. "As I was sitting by my Lord Chief Justice, one of the Judges asked him 'Whether Roper<sup>1</sup> was dead?' He said, 'he for his part knew not.' Another of the Judges answered, 'It should concern you my Lord, to know it.' Whereupon he turned his speech to me, and said, 'No, Mr. Attorney, I will not wrestle now in my latter times.' 'My Lord,' said I, 'you speak like a wise man.' 'Well,' saith he, 'they have had no luck with it that have had it.' I said again, 'Those days are past.' Here you have the dialogue to make you merry."—Jan. 22. 1616.

‡ Of these very Reports Bacon himself had deliberately written, "To give every man his due,—had it not been for Sir Edward Coke's Reports, which though they

<sup>1</sup> The person who then held the office.

formally superseded, and still allowed to do duty at chambers, he was suspended from the public execution of his office and from the Council Table, and instead of appearing in Court at Westminster, or going his circuit, it was most insultingly ordered that, during the long vacation, "he should enter into a view and retraction of such novelties and errors and offensive conceits as were dispersed in his Reports."

Bacon having laid his enemy prostrate on the ground, tramples on his body. He now addressed "an Expostulation to the Lord Chief Justice Coke," in which, after some profane applications of Scripture, and pointing out how in his fallen state he ought to rejoice in the humiliation which God had inflicted upon him, he thus pithily proceeds:—"Not only knowledge, but also every other gift which we call the gifts of fortune, have power to puff up earth; afflictions only level these mole-hills of pride, plough the heart, and make it fit for wisdom to sow her seed, and for grace to bring forth her increase. Happy is that man therefore, both in regard of heavenly and earthly wisdom, that is thus wounded to be cured, thus broken to be made straight, thus made acquainted with his own imperfections that he may be perfected.

"Supposing this to be the time of your affliction, that which I have propounded to myself is by taking this seasonable advantage, *like a true friend*, though far unworthy to be counted so, to show you your true shape in a glass, and that not in a false one to flatter you, nor yet in one that should make you seem worse than you are, and so offend you, but in one made by the reflection of your own words and actions, from whose light proceeds the voice of the people, which is often, not unfitly, called the voice of God. It proceedeth from love and a true desire to do you good. All men can see their own profit; that part of the wallet hangs before. A true friend (whose worthy office I would perform, since I fear both yourself and all great men want such,) is to show the other, and which is from your eyes.

"First, therefore, behold your errors. In discourse you delight to speak too much, not to hear other men; this some say becomes a pleader, not a judge. While you speak in your own element, the law, no man ordinarily equals you; but when you wander, as you often delight to do, you wander indeed, and give never such satisfaction as the curious time requires.

"Secondly, you clog your auditory when you would be observed; speech must be either sweet or short.

"Thirdly, you converse with books, not men, and books especially human; and have no excellent choice with men, who are the best books: for a man of action and employment you seldom converse with, and then but with your underlings; not freely, but as a schoolmaster with his scholars, ever to teach, never to learn. But if some-

may have errors, and some peremptory and extrajudicial resolutions more than are warranted, yet they contain infinite good decisions and rulings over cases,— the law by this time had been almost like a ship without ballast."

times you would in your familiar discourse hear others and make election of such as know what they speak, you should know many of these tales you tell to be but ordinary, and many other things which you delight to repeat and serve out for novelties to be but stale. As in your pleadings you were wont to insult over misery, and to inveigh bitterly at the persons, which bred you many enemies, whose poison yet smelleth, so are you still wont to be a little careless in this point, to praise and disgrace upon slight grounds, and that sometimes untruly; so that your reproofs and commendations are for the most part neglected and contemned; where the censure of a Judge, coming slow but sure, should be a brand to the guilty, and a crown to the virtuous. You will jest at any man in public, without respect of the person's dignity or your own: this disgraceth your gravity more than it can advance the opinion of your wit; and so do all actions which we see you do directly with a touch of vain-glory, having no respect to the true end. You make the law to lean too much to your opinion, whereby you show yourself to be a legal tyrant, striking with that weapon where you please, since you are able to turn the edge any way. Your too much love of the world is too much seen, where, having the living of a thousand, you relieve few or none, The hand that hath taken so much, can it give so little? Herein you show no bowels of compassion, as if you thought all too little for yourself. We desire you to amend this, and let your poor tenants in Norfolk find some comfort; where nothing of your estate is spent towards their relief, but all brought up hither to the impoverishing of your country.

“ But now since the case so standeth, we desire you to give way to power, and so to fight that you be not utterly broken, but reserved entirely to serve the commonwealth again, and to do what good you can, since you cannot do all the good you would; and since you are fallen upon this rock, cast out the goods to save the bottom; stop the leaks, and make towards land; learn of the steward to make friends of the unrighteous mammon. You cannot but have much of your estate (pardon my planness) ill got. Think how much of that you never spake for, how much by speaking unjustly or in unjust causes. Account it then a blessing of God if thus it may be laid out for your good, and not left for your heir.

“ Do not, if you be restored, as some others do, fly from the service of virtue to serve the time, but rather let this cross make you zealous in God's cause, sensible in ours, and more sensible in all.”

After much more reproof and admonition, he jeeringly advises him not to be too much cast down: “ To humble ourselves before God is the part of a Christian; but for the world and our enemies the counsel of the poet is apt,

“ ‘ Tu ne cede malis, sed contrà audentior ito.’ ”\*

In no composition that I have met with is there a greater display of

vengeful malignity. Under pretence of acting a Christian part, he pours oil of vitriol into the wounds he had inflicted. There seems to have been an intention to make Coke disgorge some of his ill-gotten gains, by a heavy fine in the Star Chamber. That was abandoned, but the dismissal was consummated. After the long vacation, the Chief Justice was summoned by Bacon before the Privy Council, to give an account of what he had done in the way of correcting his Reports. He declared that in his eleven volumes, containing 500 cases, there were only four errors, and that there were as many in the much-esteemed Plowden, which the wisdom of time had discovered, and later judgments controlled. The order, prompted by Bacon and pronounced by the Lord Chancellor, was, "that the Chief Justice should still forbear his sitting at Westminster, &c., not restraining nevertheless any other exercise of his place in private."

Bacon having made a report of this proceeding to the King, with a view of hastening the final blow, says—If upon this probation, added to former matters, your Majesty think him not fit for your service, we must in all humbleness subscribe to your Majesty, and acknowledge that neither his displacing, considering he holdeth his place but during your will and pleasure, nor the choice of a fit man to put in his room, are council-table matters, but are to proceed wholly from your Majesty's great wisdom and pleasure. So that in this course it is but the signification of your pleasure, and the business is at an end as to him."

At length Bacon had the exquisite delight of making out Coke's "*supersedeas*," and a warrant to the Lord Chancellor for a writ to create a new Chief Justice.\*

To add to his satisfaction, he contrived to get himself into the good graces of Prince Charles, and was appointed Chancellor of the Duchy of Cornwall.

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## CHAPTER LV.

### CONTINUATION OF THE LIFE OF LORD BACON FROM HIS APPOINTMENT AS CHANCELLOR TILL HIS FALL.

THERE was nothing now wanting to the earthly felicity of Bacon [A. D. 1617.] except the possession of the Great Seal of England. He continued from time to time to remind the King of his pretensions; and he induced the Prince to say a good word for his further advancement. He pretended that the King's service was his great object, and adding, "were your Majesty mounted and seated without difficulties and distates in your business as I desire to see you, I should *ex animo* desire to spend the decline of my years in my stu-

\* Sir E. Coke was removed Nov. 15. 1616, and Sir Henry Montagu was sworn in as his successor the following day.

dies; wherein, also, I should not forget to do him honour, who, besides his active and politic virtues, is the best pen of Kings, much more the best subject of a pen."

On the 7th of March, 1617, his wish was accomplished. The Great Seal having been surrendered by Lord Ellesmere, was, between the hours of eleven and twelve on that day, in the Palace at Whitehall, delivered to SIR FRANCIS BACON by the King, who, at the same time, in a speech, graciously commemorated his services as Solicitor General, Attorney General, and Privy Councillor, and gave him four admonitions for his guidance as Lord Keeper;—1. To restrain the jurisdiction of the Court within its true and due limits. 2. Not to put the Great Seal to letters patent without due consideration. *Quod dubites ne feceris.* 3. To retrench all unnecessary delays. *Bis dat qui cito dat.* 4. That justice might pass with as easy charge as might be.\* Sir Francis, on bended knees, humbly, and with a most grateful mind, acknowledged the constant and never-tiring kindness of the King, who had conducted him, step by step, to the highest pinnacle of honour,—professing dutifully his determination to preserve all the rights and prerogatives of the Crown,—equally to administer the law to all in the Courts in which he himself should preside, and to exercise a general superintendence over the administration of justice throughout the realm.

As soon as Bacon had got home,—the Great Seal, in its silken purse, lying on the table before him,—his eye glancing from the paper to the long-coveted bauble, and his heart overflowing with gratitude,—he wrote the following letter to Villiers, now Earl of Buckingham, who had been present at the ceremony at Whitehall:—

“ My dearest Lord,—It is both in cares and kindness that small ones float up to the tongue, and great ones sink down into the heart in silence. Therefore, I could speak little to your Lordship to-day, neither had I fit a time; but I must profess thus much, that, in this day’s work, you are the truest and perfectest mirror and example of firm and generous friendship that ever was in Court. And I shall count every day lost wherein I shall not either study your well-doing in thought, or do your name honour in speech, or perform your service in deed. Good my Lord, account and accept me

“ Your most bounden and devoted Friend

“ and Servant of all men living,

F.R. BACON, C. S.†

With what rapture he must have written the letters C. S., which he added to his name for the first time! It has been supposed by some of his blind admirers that he reluctantly submitted to his eleva-

\* “ *Predictus Franciscus Bacon flexis genibus humiliiter gratiosissimo animo agnovit constantem Dni Regis et prennem beneficor. cursum utpote qui per tot gradus eum manu quasi duxerit ad sum. honoris fastigium,*” &c. — Cl. R. 16 Jac.

† Works, vol. v. 463.

tion, and that, inwardly desirous of retirement and contemplation, he would have shut himself up for the rest of his days in his library at Gorhambury, had it not been for the importunities of his family and dependents, joined to his hope of being able to do more good to mankind by sacrificing his inclinations, and showing to the world what could be effected by a philosopher in high office and in the exercise of great power. For this opinion no better reason can be given than an extract of an *Essay* written by him while a student at Gray's Inn : “ Men in great place are thrice servants : servants of the Sovereign or state ; servants of fame ; and servants of business : so as they have no freedom, neither in their persons, nor in their actions, nor in their times. It is a strange desire to seek power and to lose liberty, or to seek power over others and to lose power over a man's self.”\* It may as well be said that he despised money, because in his writings he calls riches the “ baggage of virtue.” In seasons of reflection and remorse he must often have said to himself,

— “ Video meliora proboque ;  
Deteriora sequor.”

His first act was graceful and becoming ; he went next day to York House to pay his respects to his predecessor, — to thank him for that kindness which had contributed to his advancement, — and, in the King's name, to offer him an Earldom.

The Court was now in the bustle of preparation for James' visit to Scotland. On his accession to the throne of England, he had promised his countrymen to pay them at least a triennial visit ; but, during fourteen long years, the halls of Holyrood had been empty ; and the progress to the north, at last about to take place, attracted the attention of both nations. Buckingham was to accompany the King, that he might direct his proceedings, and take care that no fresh favourite should engage his affections. The new Lord Keeper was to be left at the head of the government in London. In the contemplation of this journey, he had prepared, while Attorney General, “ Remembrances for the King before his going into Scotland ;” and he now sketched out the “ Council business” to be done in his Majesty's absence, the great object of which was to preserve the public tranquillity during Easter Term, when the town was expected to be [A. D. 1617.] very full of company.† The King took his departure from Whitehall on the 14th of March, exactly a week after Bacon had received the Great Seal.

It was luckily vacation time, and the Lord Keeper had full leisure

\* *Essay, “ Of Great Place.”*

† These papers show that the attendance of persons in London from the country now depending on the meeting of parliament, was then regulated by the law terms, and this seems to have continued to the reign of Queen Anne : —

“ Rhymes ere he wakes, and prints *before term ends*,  
Obliged by hunger and request of friends.”

to prepare for entering on the discharge of his official duties. His promotion had given general satisfaction ; he was congratulated upon it not only by his Alma Mater, but by the University of Oxford\*, and the universal expectation was that the *beau idéal* of a perfect Judge, which he had so admirably imaged in his Essay "Of Judicature," was really to be exemplified to the admiring gaze of mankind.

At the commencement of his judicial career there was no disappointment. On the 7th of May, the first day of Easter term, he took his seat in the Court of Chancery. The splendour of the ceremony was little impaired by the absence of the grandees who were attending the King, — their place being supplied by the general eagerness to do honour to the new Lord Keeper. The procession was formed at his "lodging" in Gray's Inn, and marched, by Holborn, Chancery Lane, the Strand, Charing, Whitehall, and King Street, to Westminster Hall, in the following order : — 1. Clerks and officers in Chancery. 2. Students of law. 3. Serjeant at arms, purse-bearer, and gentlemen servants of the Lord Keeper. 4. The Lord Keeper, in a gown of purple satin, riding between the Lord Treasurer and the Keeper of the Privy Seal. 5. Earls and Barons. 6. Privy Council-lors. 7. The Judges. 8. The Knights and Esquires ; — all of whom followed the Lord Keeper mounted on caparisoned steeds. Alighting in Palace Yard, and entering Westminster Hall, the Lord Keeper was received by the Serjeants at Law and the Benchers and Readers of the Inns of Court, and conducted into the Court of Chancery, now filled with those who had composed the cavalcade.

The oaths being administered to him, he delivered an address on which he had bestowed much pains, and which shows his intimate familiarity with the duties he had to perform. He thus began : — " Before I enter into the business of the Court, I shall take advantage of so many honourable witnesses to publish and make known summarily what charge the King's most excellent Majesty gave me when I received the Seal, and what orders and resolutions I myself have taken in conformity to that charge, that the King may have the honour of direction, and I the part of obedience." After some pardonable flat-tery of his royal Master, he proceeds to lay down most excellent practical rules which he undertook to observe. " I am resolved that my decree shall come speedily, if not instantly, after the hearing, and my signed decree speedily upon my decree pronounced. For it hath been a manner much used of late in my Lord's time, of whom I learn much to imitate, and somewhat to avoid, that upon the solemn and full hearing of a cause nothing is pronounced in Court, but breviates are

\* To Cambridge he replied, " Your gratulations shall be more welcome to me than your business or occasions, which I will attend ; and yet not so but that I shall endeavour to prevent them by my care of your good." To Oxford ; " I shall by the grace of God, as far as may concern me, hold the balance as equally between the two Universities as I shall hold the balance of other justice between party and party. And yet in both cases I must meet with some inclinations of affection, which nevertheless shall not carry me aside." — April 12. 1617.

required to be made, which I do not dislike in itself in causes perplexed. But yet I find, when such breviates were taken, the cause was sometimes forgotten a term or two, and then set down for a new hearing. I will promise regularly to pronounce my decree within a few days after my hearing, and to sign my decree, at the least, in the vacation after the pronouncing. For fresh justice is sweetest.

“ Again, because justice is a sacred thing, and the end for which I am called to this place, and therefore is my way to heaven, (and if it be shorter, it is never a whit the worse,) I shall, by the grace of God, as far as God will give me strength, add the afternoon to the forenoon, and some fortnight of the vacation to the term, for the expediting and clearing of the causes of the Court; only the depth of the three long vacations I would reserve, in some measure, free from business of estate, and for studies, arts, and sciences, to which, in my own nature, I am most induced.\*

“ There is another point of true expedition which resteth much in itself, and that is in my manner of giving orders. For I have seen an affectation of despatch turn utterly to delay at length. But I mean not to purchase the praise of expedition in that kind. My endeavour shall be to hear patiently, and to cast my order into such a mould as may soonest bring the subject to the end of his journey.

“ I will maintain strictly and with severity the former orders which I find my Lord Chancellor hath taken for the immoderate and needless prolixity and length of bills and answers, as well in punishing the party as fining the counsel whose hand I shall find at such bills and answers.

“ I shall be careful there be no exaction of any new fees, but according as they have been heretofore set and tabled. As for lawyers' fees, I must leave that to the conscience and merit of the lawyer, and the estimation and gratitude of the client.”

After touching on other topics rather of temporary interest, he intimates his intention, for the sake of the junior barristers who could not be heard above once or twice in a term, to hear motions every Tuesday between nine and eleven,—and he proceeds to announce to their Lordships what he truly calls “ a fancy”—which would cause a mutiny at the bar in our times. “ It falleth out that there be three of us the King's servants, in great places, that are lawyers by descent, Mr. Attorney, son of a Judge, Mr. Solicitor, likewise son of a Judge, and myself, a Chancellor's son. Now, because the law roots so well in my time, I will water it at the root thus far, as besides these great ones I will hear any Judge's son before a Serjeant, and any Serjeant's son before a reader, if there be not many of them.”

He announced that he was preparing “ new orders” to regulate the practice of the Court,—and again proclaimed his loyalty by saying,—“ It is my comfort to serve such a Master, that I shall need to be but a conduit only for the conveying of his goodness to his people,”—

\* He here beautifully pays homage to philosophy.

not omitting a pious compliment to his father,— *optimus magistratus praestat optime legi*; for myself I doubt I shall not attain it; yet I have a domestic example to follow.”\*

Next morning he wrote an account of the ceremony to Buckingham:—“Yesterday I took my place in Chancery, which I hold only for the King’s grace and favour, and your constant friendship. There was much ado and a great deal of world: but this matter of pomp which is heaven to some men, is hell to me (!), or purgatory at least. It is true I was glad to see that the King’s choice was so generally approved, and that I had so much interest in men’s good will and good opinion, because it maketh me a fitter instrument to do my Master service, and my friend also. After I was set in Chancery, I published his Majesty’s charge which he gave me when he gave me the Seal, and what rules and resolutions I had taken for the fulfilling his commandments. I send your Lordship a copy of what I said. Men tell me it hath done the King a great deal of honour, insomuch that some of my friends that are wise and no vain ones, did not stick to say to me that there was not this seven years such a preparation for a parliament,— which was a commendation I confess pleased me well. I pray take some fit time to show it his Majesty, because if I misunderstood him in any thing, I may amend it, because I know his judgment is higher and deeper than mine.”†

He was greatly delighted with the following answer:—“I have acquainted his Majesty with your letter and the papers that came enclosed, who is exceedingly well satisfied—especially with the speech you made at the taking of your place in the Chancery. Whereby his Majesty perceiveth that you have not only given proof how well you understand the place of a Chancellor, but done him much right also in giving notice to those that were present, that you have received such instructions from his Majesty, whose honour will be so much the greater in that all men will acknowledge the sufficiency and worthiness of his Majesty’s choice in preferring a man of such abilities to that place, which besides cannot but be a great advancement and furtherance to his service; and I can assure your Lordship that his Majesty was never so well pleased as he is with this account you have given him of this passage.”‡

The Lord Keeper resolved to show what could be effected by vigour and perseverance. He sat forenoon and afternoon,—coming punctually into Court and staying a little beyond his time to finish a matter, which if postponed might have taken another day,—most patiently listening to every thing that could assist him in arriving at a right conclusion, but giving a broad hint to counsel by a question, a shrug, or a look, when they were wandering from the subject,—not baulking the hopes of the suitors by breaking up to attend a Cabinet or the

\* Works, iv. 486.

† Works, v. 489. Bacon no doubt expected that the letter as well as the address would be laid before the King.

‡ Works, v. 475.

House of Lords, — not encouraging lengthiness at the bar to save the trouble of thought, — not postponing judgment till the argument was forgotten, — not seeking to allay the discontent of the bar by “ nods, and becks, and wreathed smiles.”

At the end of one month he had satisfactorily cleared off the whole arrear, and on the 8th of June he thus exultingly writes to Buckingham: —

“ My very good Lord, — This day I have made even with the business of the kingdom for common justice ; not one cause unheard ; the lawyers drawn dry of all the motions they were to make ; not one petition unanswered. And this I think could not be said in our age before. This I speak not out of ostentation, but out of gladness when I have done my duty. I know men think I cannot continue if I should thus oppress myself with business ; but that account is made. The duties of life are more than life ; and if I die now, I shall die before the world will be weary of me, which in our times is somewhat rare.”\* He then goes on to mention a slight attack of the gout in his foot, which he ascribed to “ changing from a field air to a Thames air,” that is from Gray’s Inn to York House, of which he had now taken possession with great delight, as his father had so long occupied it, and it was the place of his own birth.†

To gain the good will of the profession, he wisely revived a practice which having succeeded well with Lord Chancellor Hatton, had fallen into desuetude, and which all prudent Chancellors follow, — to give dinners to the Judges and the leaders of the bar.‡ He sends the following account in a letter to Buckingham of his first banquet: —

“ Yesterday, which was my weary day, I bid all the Judges to dinner, which was not used to be, and entertained them in a private withdrawing chamber with the learned counsel. When the feast was

\* Works, vi. 149.

† York House having been the residence of so many Chancellors and Lord Keepers, and being so often mentioned, some farther account of it may please the curious reader. The see of York being deprived of its ancient inn by Wolsey’s cession of Whitehall to Henry VIII., Heath, Archbishop of York and Chancellor, purchased a piece of land and certain old buildings between the river Thames and the Strand, near where Villiers Street now stands ; there he erected York House in which he resided, and which, under leases from successive Archbishops of York, was occupied by almost all the holders of the Great Seal who succeeded him down to Lord Bacon. The hall was fitted as a court for business in the afternoon and out of term, and it contained various accommodations for the Chancellor’s officers. Coming by exchange to the Crown after the fall of Bacon, it was granted to Buckingham. Being seized as forfeited by the Long Parliament, it was granted to Lord Fairfax, — but reverting to the second Duke of Buckingham, he sold it for building, and there were erected upon it “ George Street,” “ Villiers Street,” “ Duke Street,” and “ Buckingham Street,” which, with “ Of Alley,” still preserve his name and title, — the lines of Pope being a lasting record of his infamy.

‡ The complaints of Lord Eldon’s delays were much aggravated by his non-feazance in this respect. During a course of professional dinners by Sir Thomas Plomer, Romilly observed, that “ The Master of the Rolls was very properly clearing off the arrears of the Lord Chancellor.”

past, I came amongst them and sat me down at the end of the table, and prayed them to think I was one of them and but a foreman.\* I told them I was weary, and therefore must be short, and would now speak to them upon two points." The first was about injunctions:—"I plainly told them that, for my part, as I would not suffer any the least diminution or derogation from the ancient and due power of the Chancery, so if any thing should be brought to them at any time touching the proceedings of the Chancery which did seem to them exorbitant or inordinate, that they should freely and friendly acquaint me with it, and we should soon agree; or if not, we had a Master that could easily both discern and rule. At which speech of mine, besides a great deal of thanks and acknowledgment, I did see clear and comfort in their faces, as if it were a new world." The second point was, requiring from each of them a written account of what they had done and observed on circuits, to be sent to the King.

What was not so laudable, — he already began to tamper privately with the Judges, and soliciting such of them as were most apt for his purpose, prosecuted a scheme for extending still farther the usurped jurisdiction of the *High Commission Court*.

He continued regularly to correspond on all matters of State with the King and Buckingham, who were holding a parliament in Scotland, in the vain hope of establishing episcopacy in that country. Having at first ventured to oppose the projected matrimonial alliance between Prince Charles and the Infanta of Spain, he yielded to the King's wishes, and did all in his power to promote it.

He was thus in the highest possible favour, when suddenly his extinguishable enmity to Sir E. Coke had nearly produced his own ruin. Not satisfied with turning him out of his office of Chief Justice, and erasing his name from the list of Privy Councillors, he still went on with the absurd charge against him about his Reports, and hoped to "make a Star Chamber business of it."†

The Ex-chief Justice counteracted this scheme by a most masterly stroke of policy. His second wife, Lady Hatton, had brought him one child, a daughter, who was to succeed to all her mother's immense property. This heiress he offered in marriage to Sir John Villiers, the brother of the favourite, who was eager for the aggrandisement of his family. The proposal was highly agreeable to both brothers and their mother who ruled them, — but most highly alarming to Bacon. He was delighted to hear that Lady Hatton disliked the match as much

\* I do not exactly understand how my Lord Keeper Bacon comported himself on this occasion. Are we to understand that he could not be at table during dinner from indisposition? or that he was too great to eat with his company, and condescendingly asked them to "think he was one of them," when he came in to harangue them? Whoever has had the good fortune to be present when Lord Chancellor Lyndhurst presides at similar dinners, will form a better opinion of the manners of the man and the times.

† "I did call upon the committees also for the proceeding in their purging of Sir Edward Coke's Reports, which I see they go on with seriously." — *Bacon to Buckingham, May, 1617.*

as himself, and forgetting the scornful usage he had experienced from her in former days, when he sought her hand in marriage, — he opened a correspondence with her, and strenuously abetted her resistance. Without duly considering what were likely to be the feelings of Buckingham on the occasion, he wrote to him, — “The mother’s consent is not had, nor the young gentlewoman’s, who expecteth a great fortune from her mother, which, without her consent, is endangered. This match, out of my faith and freedom towards your Lordship, I hold very inconvenient both for your brother and yourself. First, he shall marry into a disgraced house, which in reason of state is never held good. Next, he shall marry into a troubled house of man and wife, which in religion and Christian discretion is disliked. Thirdly, your Lordship will go near to lose all such your friends as are adverse to Sir Edward Coke, myself only except, who out of a pure love and thankfulness shall ever be firm to you. And, lastly and chiefly, it will greatly weaken and distract the King’s service.” He therefore strongly advises that the match shall be broken off, “or not proceeded in without the consent of both parents, required by religion and the law of God.”\*

Bacon wrote still more strongly to the King, pointing out the public mischief which would arise from the notion that Coke was about to be restored to favour. “Now, then, I reasonably doubt that, if there be but an opinion of his coming in with the strength of such an alliance, it will give a turn and relapse in men’s minds into the former state of things hardly to be holpen, to the great weakening of your Majesty’s service.” Having dwelt upon the dangerous influence which Coke might thus acquire if a parliament were called, he contrasts himself with the dangerous rival — whose coming patriotism seems to have cast its shadow before : “I am *omnibus omnia* for your Majesty’s service ; but he is by nature unsociable, and by habit popular, and too old now to take a new ply. And men begin already to collect, yea, and to conclude, that he that raiseth such a smoke to get in, will set all on fire when he is in.”† Bacon’s head was so turned by his elevation, that in this letter he madly went so far as to throw out some sarcasms upon the favourite himself. To him, as might have been expected, it was immediately communicated. Buckingham was thrown into an ecstasy of rage, and he easily contrived to make the King, if possible, more indignant at the presumption and impertinence of the Lord Keeper.

Meanwhile the plot thickened in England. Lady Hatton, with the concurrence of her present adviser, carried off her daughter, and concealed her in a country house near Hampton Court. The ex-chief Justice tracing the young lady to her hiding-place, demanded a warrant from the Lord Keeper to recover her, and this being refused, he went thither at the head of a band of armed men and forcibly rescued her. For this alleged outrage he was summoned, and several times examined

\* Works, v. 477.

† Ibid. v. 478.

before the Council,—and, by the Lord Keeper's directions, Yelverton, the Attorney General, filed an information against him in the Star Chamber.

Intelligence of these events being brought to Edinburgh, the King and Buckingham put an end to the sullen silence they had for some time observed towards the Lord Keeper,\* and wrote him letters filled with bitter complaints, invectives, and threats. Bacon suddenly awoke as from a trance, and all at once saw his imprudence and his danger. In an agony of terror, he ordered the Attorney General to discontinue the prosecution in the Star Chamber; he sent for Lady Hatton, and tried to reconcile her to the match, and he made the most abject submissions to Buckingham's mother, who had complained of having been insulted by him. He then sent despatches by a special messenger to Edinburgh to relate his altered conduct.

There never was a more striking instance of "kissing the rod" than is exhibited in his answer to the King. "I do very much thank your Majesty for your letter, and I think myself much honoured by it. For though it contains some matter of dislike, in which respect it hath grieved me more than any event which hath fallen out in my life, yet I know reprehensions from the first masters to the best servants are necessary, and chatisement, though not pleasant for the time, worketh good effects." But the great difficulty was to explain away the disparaging expressions he had so unguardedly used about Buckingham. "I know him to be naturally a wise man, of a sound and staid wit, as I ever said unto your Majesty. And again, I know he hath the best tutor in Europe. But yet I was afraid that the height of his fortune might make him too secure, and, as the proverb is, *a looker on seeth more than a gamester.*" With respect to his treatment of Sir Edward Coke, he says, "I was sometimes sharp, it may be too much, but it was with end to have your Majesty's will performed, or else when methought he was more peremptory than became him, in respect of the honour of the Table.† It is true, also, that I disliked the riot or violence whereof we of the Council gave your Majesty advertisement, and I disliked it the more because he justified it by law, which was his old song. Now that your Majesty hath been pleased to open yourself to me, I shall be willing to further the match by any thing that shall be desired of me, or that is in my power."‡

James, now on his return to the South,—by order of Buckingham, wrote back an answer showing an unappeased resentment.§ "Was not the thefteous stealing away of the daughter from her own father the first ground whereupon all this great noise hath since proceeded? We never took upon us such a patrocinyng of Sir Edward Coke, as

\* Bacon had complained of this silence. "I do think long to hear from your Lordship touching my last letter wherein I gave you my opinion of touching your brother's match." — July 25, 1617.

† Privy Council.

‡ Works, vi. 157.

§ It is superscribed "James R.," and coldly begins "Right trusty and well-beloved Councillor, we greet you well."

if he were a man not to be meddled withal in any case. *De bonis operibus non lapidamus vos.* But whereas you talk of the riot and violence committed by him, we wonder you make no mention of the riot and violence of them that stole away his daughter." After repeating Bacon's explanation about the favourite, he proceeds, "Now we know not how to interpret this in plain English, otherwise than that you were afraid that the height of his fortune might make him mis-know himself. We find him farthest from that vice of any courtier that ever we had so near about us ; so do we fear you shall prove the only Phenix in that jealousy of all the kingdom. We cannot conceal that we think it was least your part of any to enter into that jealousy of him, *of whom we have often heard you speak in a contrary style.* We will not speak of obligation, for surely we think, even in good manners, you had reason not to have crossed any thing wherein you had heard his name used till you had heard from him."\*

Bacon, with the most painful anxiety, awaited the return of the Court to Whitehall, and he made another desperate effort, by a letter to the King, to apologise for his words about Buckingham. "My meaning was plain and simple, that his Lordship might, through his great fortune, be the less apt to cast and foresee the unfaithfulness of friends, and the malignity of enemies, and accidents of time. Therefore I beseech your Majesty to deliver me in this from any the least imputation upon my dear and noble Lord and friend."

The time at length arrived when his fate was to be decided. As soon as he heard of Buckingham's return, he hastened to his house, but was denied an audience. For two successive days was he suffered to remain in an antechamber, among lacqueys, seated on an old wooden box, with the purse holding the Great Seal in his own hand, as if prepared to go into the presence of the Sovereign or to receive a message from the Commons at the bar of the Upper House. When, at length, he was admitted, he flung himself on the floor, kissed the favourite's feet, and vowed never to rise till he was forgiven.†

Buckingham having effectually frightened him out of any future resistance to his will,—being convinced that he himself could not find elsewhere so pliant and useful an instrument of his government, accepted his submission, and agreed to a reconciliation. The marriage was celebrated,—Bacon retained the Great Seal,—and Coke was restored to the Privy Council.

The Lord Keeper was soon made sensible of the bondage into which he had fallen. He was well aware of the evils of monopolies, which had excited such complaints in the late and in the present reign, and he had promised to stay such grants when they came to the Great Seal : but Buckingham found them the readiest means of enriching his own family, and providing for dependants. He therefore multiplied them with reckless prodigality, and without any con-

\* Works, vi. 161.

† See Sir Anthony Weldon's account of this scene.

trol. The most famous, from the proceedings to which they afterwards gave rise, were the patents to Sir Giles Mompesson, the original of Massinger's "Sir Giles Overreach," and to Sir Francis Michell, his "Justice Greedy," for licensing ale-houses and taverns, and for the exclusive manufacturing of gold and silver lace,—with authority to search houses and arrest interlopers, and other powers as great as have ever been given to farmers of the revenue in the worst governed states. These not only leading to gross frauds by the patentees, but their agents abusing the enormous powers conferred upon them to the breaking of old grudges, and even the corrupting of female chastity,—the public clamour was so great that a reference was made by the King to the Lord Keeper respecting the legality of such proceedings. Having taken down Sir Giles with him to Kew, where he went to recreate himself for a few days after long application to business, he reports "that though there were some things he would set by, he found some things that he liked very well,"—and he afterwards gave a deliberate opinion, (in which he made the Attorney and Solicitor concur,) in favour of the validity of the gold and silver wire patent, as "a means of setting many of his Majesty's poor subjects on work;"—with an intimation that "it were good the dispute were settled with all convenient speed,"—which is supposed to mean, it were good "that certain of the house of Villiers should go shares with Overreach and Greedy in the plunder of the public." Sir Edward, a half-brother of the favourite, was admitted into the patent, and then the Lord Keeper committed to prison all who infringed it.

Buckingham's interference with the Lord Keeper in his judicial capacity was still more reprehensible. Few causes of any importance were about to come to a hearing in the Court of Chancery, in which he did not write to the Judge for favour to either of the parties. He at first used the qualification, "so far as may stand with justice and equity,"—or "so far as your Lordship may see him grounded upon equity and reason,—and in a charity suit he would pledge himself that the defendants charged with breach of trust "desired only the honour of their ancestor's gift;"—but he afterwards omitted these decent forms, and pretty plainly intimated that he was to dictate the decree. While Bacon held the Great Seal, I do not find one remonstrance against these applications, and Buckingham and those who paid for them must have believed that they were effectual. Such was the result of the advice of the instructor to the pupil: "By no means be you persuaded to interpose yourself, either by word or letter, in any cause depending in any court of justice!"

As a reward for his subserviency, the Lord Keeper, on the 4th of January, 1618, had the higher title of Lord Chancellor conferred upon him\*, and a few months after he was raised to the Peerage by the title of Baron Verulam,—the preamble reciting that the King

\* The ceremony took place in the palace at Whitehall, at four in the afternoon, when "in presencia excellentissimi Principis Caroli Principis Wallie &c. predictus

was "moved by the grateful sense he had of the many faithful services rendered him by this worthy person,"—and the patent being witnessed by the Prince of Wales and many of the first nobility.

But he was now under considerable apprehension from the violence of Lord Clifton, against whom he had very justly pronounced a decree in the Court of Chancery,—who betrayed symptoms of resentment at the time, and who, when he had left the Court, declared publicly that "he was sorry he had not stabbed the Lord Chancellor in his chair the moment the judgment was given." The offender was sent to the Tower, where he manifested complete derangement of mind, and finally destroyed himself. While he was in confinement Bacon wrote to Buckingham, "I little fear the Lord Clifton, but I much fear the example—that it will animate ruffians and *rodomonti* against all authority, if this pass without censure. The punishment it may please his Majesty to remit; and I shall not formally, but heartily intercede for him; but an example (setting myself aside) I wish for terror of persons that may be more dangerous than he towards the first Judge of the kingdom."

The Lord Chancellor now acted rather a conspicuous part in an [Octr. 1618.] affair, which reflected great disgrace on the King and his Councillors. Sir Walter Raleigh, after having been imprisoned many years in the Tower since his conviction for treason, had been released upon a representation of the glory and riches he could secure to the nation by an expedition to America, and having returned with failure and disgrace, was in custody on a charge of burning a Spanish town, and making war against Spain contrary to his orders. There being much difficulty as to the mode of proceeding against him, the Lord Chancellor assembled all the Judges at York House, and concurred with them in an opinion, "that Sir Walter Raleigh, being attainted of high treason, which is the highest and last work of law, he cannot be drawn in question judicially for any crime or offence since committed,"—recommending "either that a warrant should be immediately sent to the Lieutenant of the Tower for his immediate execution under the former sentence, or that he should be brought before the Council and principal Judges, some of the nobility and gentlemen of quality being admitted to be present, and there being a recital of all his recent offences, and then he being heard and withdrawn,—without any fresh sentence, the Lords of the Council and Judges should give their advice openly, whether in respect of these offences the King might not with justice and honour give warrant for his execution on his attainder?" The

Dns Rex prm Mag. Sigill. a custodia dci Dni Custodis Francisci Bacon requirens et recipiens et penes se paulisper restinens atque grata obsequia et fidelia servia dci Dni Custodis non solum in administratione justicie sed etiam in conciliis assidue Dno Regi prestita commemorans et intendens ill. ad locum et officium Dni Cancellarii Angl. ultius erigere et transferre Regia Majestas eidem Francisco Bacon Dno Cust. tanquam Cancellari. suo Angl. Mag. Sig. Angl. reddidit et liberavit," &c.—  
Cl. R. 15 Jac. 1.

course adopted was to bring Raleigh to the King's Bench bar, where execution was awarded against him,—and the Lord Chancellor made out writs for it addressed to the Lieutenant of the Tower and the Sheriff of Middlesex.

Did Bacon feel any satisfaction from the recollection that Raleigh had been instrumental in ruining Essex, and had guarded him with savage exultation at his trial? No! Bacon had not even the merit of being "a good hater," and his enmities as well as his friendships being short-lived, he would have been better pleased if, without any inconvenience to himself, this victim could have been spared. When Raleigh was going on his expedition to Guiana, and was desirous to have a formal pardon, Bacon had said to him, "Sir, the knee-timber of your voyage is money; spare your purse in this particular, for upon my life you have a sufficient pardon for all that is passed already, the King having, under his Broad Seal, made you Admiral of his fleet, and given you power of life and death over the soldiers and officers you command."\* It must have been disagreeable for him now to declare the law, that "nothing short of an express pardon could purge the penalties of treason, and that Raleigh being *civiliter mortuus*, ought *naturally* to be put to death."

The end of this great man, notwithstanding his faults, was deplored and condemned. Bacon was not suspected of prompting it, but he was severely censured by his contemporaries for acquiescing in it; and surely, if he had been the upright and constant character we are now desired to consider him, he would, as the head of the law, and superintending the administration of justice,—even at the risk of offending the King or the favourite,—have resisted the outrage of executing a man under a sentence pronounced near sixteen years before, who in the meantime, having gained universal applause by his literary productions, had been intrusted with supreme power over the lives of others. A method might have been discovered of trying him for his alleged recent offences,—which, if proved, could not have been legally visited with capital punishment.

Bacon was engaged in other juridical proceedings about this time, which, though of less consequence, ought not to be [A. D. 1618.] passed over unnoticed. In the first case I shall mention, he was no more to blame than that he was not in advance of his age in the science of political economy, and that he entertained notions respecting the use of the precious metals which are not yet entirely exploded. It was found that certain Dutch merchants had clandestinely exported bullion and coin from London to a large amount, in payment of commodities imported, and a cry was raised that the country was robbed. To make certain that the alleged delinquents should be amenable to justice, the Chancellor issued writs against them of "ne exeant regno," and he appointed a commission to investigate the matter, consisting of himself, Sir E. Coke, the Chancellor

of the Exchequer, and the Lord Chief Justice of the King's Bench. On their advice 180 informations were filed, and 20 of the principal merchants being tried and convicted, were fined to the amount of 100,000*l.*

Then came a strange prosecution in the Star Chamber, which [A. D. 1618.] seems to have been instituted by Buckingham and Bacon to get rid of the Lord Treasurer, the Earl of Suffolk. He and his wife were accused of "trafficking with the public money,"—and being convicted, they were, on the advice of Sir E. Coke, who presided, ordered to be imprisoned and fined 30,000*l.*—a sentence too mild for the Chancellor, who told the King that "Coke on this occasion had done his part *excellently*\*, but pursued his own constant course—activity in detecting the offence, and moderation in punishing the offender." Buckingham compromised the matter with Suffolk for 7000*l.*, and for 20,000*l.* sold the Treasurer's place to Lord Chief Justice Montagu, with a Peerage into the bargain.

Strong complaints began to be made against the Chancellor's decisions in his own Court. He selected as a subject of [A. D. 1618.] prosecution a libel upon him,—not the most severe then circulated,—but which luckily happened to be unfounded. He had pronounced a decree against one Wrayham rather hastily, not corruptly,—and an epistle to the King representing it as unjust, contained these words, "He that judgeth unjustly must, to maintain it, speak untruly, and the height of authority maketh man to presume." The sentence on the libeller was the mildest I read of in the records of the Star Chamber—merely "that the defendant should be censured." It may probably be accounted for by the grudge against the prosecutor still harboured by Sir Edward Coke, by whom it was proposed.†

The Chancellor, on the prompting of Buckingham, was himself [A. D. 1620.] prosecutor and judge in the next case of importance which came forward. Sir Henry Yelverton had been appointed his successor as Attorney General. "When the business was done he went privately to the King and told him he did acknowledge how like a good Master and worthy Prince he had dealt with him, and although there was never mention, speech, or expectation of any thing to be had for his place, yet out of his duty he would give him 4000*l.* ready money. The King took him in his arms, thanked him, and commended him much for it, and told him he had need of it, for it must serve even to buy him dishes."‡ Buckingham was rather chagrined that no part of this donation came to his private purse, and Yelverton was afterwards so indiscreet as to behave disrespectfully to the Chancellor, who thus complains of him:—"Mr.

\* Letter, Nov. 13, 1619. His notion of "excellently" we learn from the praise he bestowed on himself on a similar occasion. "The evidence went well, and I will not say I sometimes helped it as far as was fit for a Judge." — Oct. 22, 1619.

† 2 St. Tr. 1059.

‡ Diary of Whitelock, p. 63.

Attorney groweth pretty pert with me of late; and I see well who they are that maintain him. But be they flies or be they wasps, I neither care for buzzies nor stings." He now gave great offence to both by refusing to pass some illegal patents, and they vowed his destruction. The pretext was, his having introduced into a charter granted to the city of London certain clauses alleged not to be agreeable to the King's warrant, and derogatory to his honour. For this supposed offence the Chancellor ordered an information to be filed against him in the Star Chamber, and resolved to preside himself at the trial. There is a curious paper preserved to us with the notes he had made for his speech in passing sentence. "Sorry for the person, being a gentlemen that I lived with in Gray's Inn,—served with him when I was Attorney,—joined with him in many services,—and one that ever gave me more attributes in public than I deserved,—and, besides, a man of very good parts,—which, with me, is friendship at first sight,—much more joined with so ancient an acquaintance. But, as Judge, hold the offence very great, &c."\*

The following is Bacon's boastful account to Buckingham of the conclusion of the trial:—"Yesternight we made an end of Sir Henry Yelverton's cause. I have almost killed myself by sitting almost eight hours. He is sentenced to imprisonment in the Tower during the King's pleasure, the fine of 4000*l.*, and discharge of his place, by way of opinion of the Court,—referring it to the King's pleasure. How I stirred the Court I leave it to others to speak; but things passed to his Majesty's great honour. I would not for any thing but he had made his defence for many deep parts of the charge were deeper printed by the defence." Yelverton, having been suspended from his office of Attorney General during the prosecution, was now turned out, and was farther punished on the meeting of parliament for his conduct in the granting of monopolies; but he was made a judge of the Common Pleas at the commencement of the next reign.†

Amidst all these low, grovelling, and disgraceful occupations, Bacon was indefatigably employed upon his immortal work, the "NOVUM ORGANUM," which had engaged his thoughts for thirty years, and which he had twelve times transcribed with his own hand, as often enlarging and amending it.‡ He still considered it defective in itself, and it was only a part of his "INSTAURATIO MAGNA," which he once hoped to have completed. But "numbering his days," he thought he should best consult his own fame and the good of mankind by now giving it to the world. It came out in October, 1620, when he was in his sixtieth year, the preceding long vacation having been spent in again retouching it and getting it through the press.

In addition to the public Dedication to James, the author accom-

\* Works, vi. 258.

† 2 St. Tr. 1141. Works, vi. 259.

‡ "Ipse reperi in archivis dominationis sua autographa plus minus duodecim ORGANI Novi de anno in annum elaborati, et ad incudem revocati; et singulis annis, ulteriore lima subinde politi et castigati; donec in illud tandem corpus adoleverat, quo in lucem editum fuit." — Rawley.

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reverend prelates to discern of my cause ; and desiring no privilege of greatness for subterfuge of guiltiness, but meaning, as I said, to deal fairly and plainly with your Lordships, and to put myself upon your honours and favours, I pray God to bless your counsels and persons, and rest your Lordships' humble servant,

“FR. ST. ALBAN, Canc.”

A courteous answer was returned to him, “that it was the wish of [A. D. 1621.] the House that his Lordship should clear his honour from all the aspersions cast upon it, and that they prayed he would provide for his defence.”

The King was rather startled at these prosecutions, which he considered dangerous to prerogative, and in the hope of diverting the Commons from their purpose without offending them, he sent them a message, — “That he was very sorry a person so much advanced by him, and sitting in so high a place, should be suspected ; that he cannot answer for all others under him, though his care in the choice of Judges had been great ; but if this accusation could be proved, his Majesty would punish him to the full ; that the King would, if it be thought fitting, here grant a commission under the Great Seal of England to examine all upon oath that can speak in this business.”

This message was most gratefully welcomed by the Commons, and had nearly gained its object, — when Sir Edward Coke rose and begged “they would take heed this commission did not hinder the manner of their parliamentary proceeding against a great public delinquent.” Thereupon a general address of thanks to the King was voted, and they resolved to prosecute the case before the Lords.\*

A vast number of fresh charges of bribery and corruption now poured in against the Chancellor, and the Commons were preparing regular articles of impeachment on which he might be brought to trial, when, on the approach of Easter, the two Houses were adjourned by royal mandate till the 17th of April, — in the hope that during the recess the clamour might subside, or some expedient might be devised to defeat or delay the investigation. Before the adjournment his Majesty, rather in an unusual manner, came to the House of Lords, and from the throne made them a long speech without calling in the Commons, alluding to the Chancellor’s case, and expressing his readiness at all times, without the assistance of parliament, to do justice to his subjects. The Lords affected to be so much pleased with this condescension, that they made an order that ever after a sermon should be preached on the anniversary of the day, and that in all future parliaments the Lords should on that day sit in their robes, *in perpetuam rei memoriavit* ; — but nevertheless they saw through James’s king-craft, and were resolved to defeat it.

The state of Bacon’s mind during this interval is differently represented. One acquaintance of his wrote to a correspondent, “Your

\* 1 Parl. Hist. 1223.

† Ibid. 1228.

good friend the Lord Chancellor hath so many grievous accusations brought against him, that his ennemis do pittie hym, and his most judicious frends have alreadie given him for gon. Notwithstanding, himself is merrie, and doubteth not that he shall be able to calme al the tempests raysed against him." Another describes him as "sick in bed and swoln in his body, and suffering none to come at him;" and adds, "some say he desired his gentleman not to take any notice of him, but altogether to forget him, and not hereafter to speak of him, or to remember there ever was such a man in the world."\* His servants rising as he passed through the hall, "Sit down, my friends," he said; "your rise has been my fall." When one of his friends, to comfort him, said, "You must look around you;" he said, with an air of piety, which he knew how to assume with great effect, "I look *above* me." He declared, "If this be to be a Chancellor, I think, if the Great Seal lay upon Hounslow Heath, nobody would take it up."

Meanwhile he tried to soften the hearts of Buckingham and the King. The former he denominated "his anchor in these floods."—He thus addressed the latter: "Time hath been when I have brought unto you 'gemitum columbae' from others, now I bring it from myself. I fly unto your Majesty with the wings of a dove, which, once within these seven days, I thought would have carried me a higher flight. When I enter into myself, I find not the materials of such a tempest as is come upon me. I have been (as your Majesty knoweth best) never authour of any immoderate counsel, but always desired to have things carried *suavibus modis*. I have been no avaricious oppressor of the people. I have been no haughty, or intolerable, or hateful man in my conversation or carriage. I have inherited no hatred from my father, but am a good patriot born. Whence should this be? for these are the things which are to raise dislikes abroad.

"For the House of Commons, I began my credit there, [A. D. 1621.] and now it must be the place of the sepulture thereof.

"For the Upper House, even within these days,—before these troubles,—they seemed as to take me into their arms, finding in me ingenuity, which they took to be the true straight line of nobleness, without crooks or angles.

"And for the briberies and gifts wherewith I am charged, when the books of hearts shall be opened, I hope I shall not be found to have the troubled fountain of a corrupt heart in a depraved habit of taking rewards to pervert justice; howsoever I may be frail, and partake of the abuses of the times.

"And therefore I am resolved, when I come to my answer, not to trick my innocency (as I went to the Lords) by cavillations or ordinances, but to speak to them the language that my heart speaketh to me, in excusing, extenuating, or ingenuous confessing, praying God to give me the grace to see the bottom of my faults, and that no hard-

\* See Montagu's Life of Bacon, cccxxviii.

ness of heart steal upon me, under show of more neatness of conscience than is cause." After many apologies and compliments, he concludes by saying. "I rest as clay in your Majesty's gracious hands."<sup>\*</sup>

Having no answer, and there being no re-action in his favour,—before the Houses met again he had a private interview with the King. Preparatory to this he made some notes, which are preserved, of the topics he was to use. "The law of nature teaches me to speak in my own defence: With respect to this charge of bribery, I am as innocent as any born upon St. Innocent's day: I never had bribe or reward in my eye or thought when pronouncing sentence or order.<sup>†</sup> If, however, it is absolutely necessary, the King's will shall be obeyed. I am ready to make an oblation of myself to the King, in whose hands I am as clay, to be made a vessel of honour or dishonour." At the interview, Bacon recommended an immediate dissolution of the parliament. James advised him to submit himself to the House of Peers, promising to restore him again if they should not be sensible of his merits. Bacon exclaimed, "I see my approaching ruin: there is no hope of mercy in a multitude. When my enemies are [A. D. 1621] to give fire am I to make no resistance, and is there to be none to shield me? Those who strike at your Chancellor will strike at your crown. I am the first, I wish I may be the last sacrifice."<sup>‡</sup>

James was greatly shaken, and inclined to dissolve the parliament, even if thereby the subsidy voted him should be lost; but he was kept steady by his new adviser, the Dean of Westminster, who said, "there is no colour to quarrel at this general assembly of the kingdom for tracing delinquents to their form. If you break up this parliament while in pursuit of justice, only to save some cormorants who had devoured that which they must disgorge, you will pluck up a sluice which will overwhelm you all."<sup>†</sup>

Accordingly, parliament was again permitted to assemble on the 17th of April; and the members of the Lower House returned keener for the attack from their intercourse with their constituents,—the cry for justice having been raised all over England. The Lords vigorously resumed their inquiries into the charges against the Chancellor, which were now reduced into form, and were twenty-three in number. He was about to be regularly put upon his trial; but on the 24th of April, the Prince of Wales was the bearer from him of the following paper, which Buckingham and the King had previously approved and intrusted to the heir apparent as a messenger, that it might be more favourably received.

\* Works, v. 549.

† A clear negative pregnant, admitting that the bribes had been received, although he was not influenced by them in giving judgment. It would puzzle a casuist to say whether this is an extenuation or aggravation of the offence.

‡ Hacket's Life of Williams, Part I. 50.

“To the Right Honourable the Lords of Parliament, in the Upper House assembled.

“The humble submission and supplication of the Lord Chancellor.

“It may please your Lordships,—I shall crave, at your Lordships' hand, a benign interpretation of that which I shall now write. For words that come from wasted spirits, and an oppressed mind, are more safe in being deposited in a noble construction than in being circled with any reserved caution.

“This being moved, and as I hope obtained in the nature of a protection to all that I shall say, I shall now make into the [A. D. 1621.] rest of that wherewith I shall, at this time, trouble your Lordships, a very strange entrance. For in the midst of a state of as great affliction as I think a mortal man can endure (honour being above life), I shall begin with the professing of gladness in some things.

[He artfully suggests, that from what has already taken place, it will be remembered hereafter that greatness is no protection to guiltiness, and that Judges will fly from any thing like corruption.]

“But to pass from the motions of my heart, whereof God is only Judge, to the merits of my cause, whereof your Lordships are Judges, under God and his Lieutenant,—I understand there hath been heretofore expected from me some justification; and, therefore, I have chosen one only justification, instead of all other,—out of the justifications of Job. For, after the clear submission and confession which I shall now make unto your Lordships, I hope I may say and justify with Job in these words: *I have not hid my sin as did Adam, nor concealed my faults in my bosom.* This is the only justification which I will use.

“It resteth, therefore, that, without fig-leaves, I do ingenuously confess and acknowledge, that having understood the particulars of the charge not formally from the House, but enough to inform my conscience and memory, I find matter sufficient and full both to move me to desert the defence, and to move your Lordships to condemn and censure me. Neither will I trouble your Lordships by singling those particulars which I think may fall off.

“*Quid te exempta juvat spinis de pluribus una.*”

“Neither will I prompt your Lordships to observe upon the proofs where they come not home, or the scruples touching the credits of the witnesses; neither will I represent unto your Lordships how far a defence might, in divers things, extenuate the offence, in respect of the time or manner of the gift, or the like circumstances, but only leave these things to spring out of your own noble thoughts and observations of the evidence and examinations themselves, [A. D. 1621] and charitably to wind about the particulars of the

charge, here and there, as God shall put into your mind, and so submit myself wholly to your piety and grace."

[He then reminds their Lordships, that they are not tied down, like ordinary Courts, by precedents; and points out to them how mercy, in one case, may do as much good as severity in another, from the example of Quintus Maximus; who, after being sentenced, was pardoned for fighting without orders; the same offence for which Tit. Manlius was put to death. *Neque minus firmata est disciplina militaris periculo Quinti Maximi quam miserabili supplicio Titi Manlii.*]

"But my case standeth not there. For my humble desire is, that his Majesty would take the Seal into his hands, which is a great downfall, and may serve I hope, in itself, for an expiation of my faults. Therefore, if mercy and mitigation be in your power, and do no way cross your ends, why should I not hope of your Lordships' favour and commiseration?"

[Having introduced elaborate compliments to the King, the Prince, and the Peers, reminding them that there are *vitia temporis*, as well as *vitia hominis*, he thus concludes:]

"And therefore my humble suit to your Lordships is, that my penitent submission may be my sentence, and the loss of the Seal my punishment; and that your Lordships will spare any further sentence, but recommend me to his Majesty's grace and pardon for all that is past. God's holy Spirit be amongst you. Your Lordships' humble servant and suppliant,

"FR. ST. ALBAN, Canc."

This was a very dexterous move; for although the submission had the appearance of a confession to be followed by punishment,—as no specific charges had been communicated to him, its generalities might easily afterwards have been explained away, and the Great Seal, after being a little while in commission, might have been restored to him.

The Lords, though by no means disposed to treat him with unnecessary harshness, and ever bearing in mind his high qualities which [A. D. 1621.] rendered his prosecution so painful a duty to all concerned in it\*, resolved "that the Lord Chancellor's submission gave not satisfaction to their Lordships; that he should be charged particularly with the briberies and corruptions alleged against him, and that he should make a particular answer thereunto with all convenient expedition."

The formal articles of charge were now communicated to him, with the proofs in support of each. On the 30th of April, the Lord Chief Justice signified that he had received from the Lord Chancellor a paper-roll sealed up. Being opened and read by the Clerk, it was found entitled "The *Confession* and humble submission of me, the

\* Except Sir Edward Coke.

Lord Chancellor." It begins:—"Upon advised consideration of the charge, descending into my conscience and calling my memory to account so far as I am able, I do plainly and ingenuously confess that I am guilty of corruption, and do renounce all defence, and put myself upon the grace and mercy of your Lordships." He then goes over the different charges articulately, confessing in every instance the receipt of the money and valuable things from the suitors in his Court, though with qualification in some instances, that it was after judgment, or understood by him to be as new-year's gifts, or for prior services.

The confession being read, it was resolved "that certain Lords do go unto the Lord Chancellor and show him the said Confession, and tell him that the Lords do conceive it to be an ingenuous and full confession, and demand whether it be his own hand that is subscribed to the same?" Nine temporal and three spiritual Lords, being appointed a committee for this purpose, repaired to York House, and were received by him in the hall where he had been accustomed to sit as Judge. After mutual salutations, they with great delicacy asked him merely if the signature to the paper which they showed him was genuine? He passionately exclaimed,—"My Lords, it is my act, my hand, my heart. I beseech your Lordships to be merciful to a broken reed." Shocked at witnessing the agonies of such a mind, and the degradation of such a name, they instantly [A. D. 1621.] withdrew, and he again retired to his chamber in the deepest dejection.

Still a difficulty remained in proceeding farther while he retained the Great Seal, for by the rules and customs of the House of Lords, a defendant prosecuted before them is to receive sentence on his knees at the bar, and the Lord Chancellor, if present, must preside on the wool-sack and pass the sentence. This embarrassment was removed on the 1st of May, when the King, finding all farther resistance hopeless, sent the Lord Treasurer, the Duke of Lennox, the Earl of Pembroke, and the Earl of Arundel to demand the Great Seal.\* They found Bacon confined to his bed by illness; and when they had explained the object of their mission,—hiding his face with one hand, with the other he delivered to them that bauble for which "he had sullied his integrity, had resigned his independence, had violated the most sacred obligations of friendship and gratitude, had flattered the worthless, had persecuted the innocent, had tampered with

\* Dns Thesaurarius, &c., ad illustrissimum Franciscum Vicecomt. Sanct. Alban' Canceller. Angl. in Ed. Ebor. morbo laborantem et ad lectum suum decubentum acceaser. ubi posteaquam mentem et propositum Regie majestatis de Magno Sigillo Angl. resumendo paucis explicassent Dns Cancellarius dcm sigillum, &c. Dno Thesaurario, &c. omni qua decuit reverencia in manus exhibuit," &c. — Cl. R. 19 Jac. I., which tells us that the messengers having put the Seal into its silk purse, carried it to the King at Whitehall, where three commissions were sealed with it by the King's order: 1. to the Master of the Rolls and others to hear causes in Chancery; 2. To the Chief Justice to preside in the House of Lords; and 3. To the Lord Treasurer and others to seal writs and patents.

Judges, had tortured prisoners, and had wasted on paltry intrigues all the powers of the most exquisitely constructed intellect that has ever been bestowed on any of the children of men.”\*

On the 2d of May the House of Lords resolved to proceed to judgment next day, “wherefore the gentlemen usher and the serjeant-at-arms were commanded to go and summon the Viscount St. Alban to appear here in person to-morrow morning by nine of the clock.”

[~~40~~ D. 1621.] They reported that having repaired to York House, they found him sick in bed, and that he had declared he feigned not this for an excuse, for that if able he would willingly have obeyed the summons, but that it was wholly impossible for him to attend. The Lords readily sustained the excuse, and resolved to proceed to sentence in his absence. He was thrown into great consternation when he heard of this, and made a last effort to obtain the interposition of the King in his favour, that so “the cup might pass from him.” He thus concludes his letter, perhaps not in the best taste: — “But because he that hath taken bribes, is apt to give bribes, I will go further and present your Majesty with a bribe; for if your Majesty give me peace and leisure, and God give me life, I will present you with a good History of England, and a better Digest of your Laws.”

The King could not interpose, and, on the 3d of May, final judgment was pronounced. The proceeding began by the Attorney General reading the articles, and the confession. The question was then put, “whether the Viscount St. Alban was guilty of the matters wherewith he was charged ?” and it was agreed that he was guilty, *nemine dissentiente*. The punishment was then considered, and there being a majority, by means of the Bishops, against suspending him from all his titles of nobility during life, there was unanimity as to the rest of the sentence, and a message was sent to the Commons “that they were ready to give judgment against the Lord Viscount St. Alban if the Commons should come to demand it. In the mean time the Peers robed, and the Speaker soon after coming to the bar, “demanded judgment against the Lord Chancellor as his offences required.”

The Lord Chief Justice declared the sentence to be, “1. That the Lord Viscount St. Alban should pay a fine of 40,000*l.*; 2. That he should be imprisoned in the Tower during the King’s pleasure; 3. That he should be for ever incapable of holding any public office, place, or employment; 4. That he should never sit in parliament, nor come within the verge of the Court.”

Thus was deservedly fixed the ineffaceable brand of public infamy

\* Macaulay’s Essays, vol. ii. 349. What a contrast between Bacon’s feelings now, and those with which he surveyed the Great Seal when he carried it home to Gray’s Inn, and wrote his first letter signed “F. Bacon, C. S.!” There might be a very instructive set of prints referring to those remote times, entitled “The Lawyer’s Progress,” — the two most remarkable of which would be his “selling himself to the Devil,” — and “Mephistopheles coming to enforce the terms of the bargain.”

upon the character of this most extraordinary man. Although there were none bold or weak enough to defend these transactions in the times when they could be best examined and appreciated, we are told by some of his amiable admirers in the nineteenth century, that he was made a sacrifice to the crimes of others, and that he was free from all legal and moral blame. While I can easily forgive such well-meant efforts produced by a sincere admiration of genius, I cannot but lament them,—and the slightest attention to fact must show them to be futile.

It is affirmed that there is an undisclosed mystery in the course which Bacon adopted of making no defence. But he pleaded *guilty* for this plain reason, that he had no defence to make. Whoever will submit to the trouble of comparing the charges and the evidence, will see that they are all fully substantiated.\* Instead of questioning the veracity of the witnesses, he circumstantially admits their statements; and the qualified denials to which he at first resorted, when accurately examined, will be found quite consistent with his final confession. He knew that he had no contradictory evidence to offer, and further investigation would only have made his delinquency more aggravated and more notorious. We must believe then that repeatedly and systematically he received money and articles of value from the parties in causes depending before him, which he was aware they presented to him with a view to influence his judgment in their favour. I presume it is not disputed that this in point of law amounts to judicial bribery, subjecting the Judge to be prosecuted for a high misdemeanour; and the only question that can be made is, whether it implies moral turpitude?

There can be no doubt that men are to be judged by the standard of their own age. It would be very unjust to blame persons who were engaged in the sixteenth century in burning witches or heretics, as if these *acts of faith* had occurred in the reign of Queen Victoria: and if it can be shown that judicial bribery was considered an innocent practice in Bacon's time, he is to be pitied, and not condemned. But the House of Commons who prosecuted him, the House of Lords who tried him, and the public who ratified the sentence, with one voice pronounced the practice most culpable and disgraceful. He had no private enemies; he had not, like Strafford, in the next age, strong party prejudices to encounter; he was a favourite at Court, and popular with the nation, who were pleased with the flowing courtesy of his manners, and proud of his literary glory. Yet there was a national cry for his punishment, and no solitary individual stood forward to vin-

\* It may be said that his decree in *Egerton v. Egerton* was confirmed by Lord Coventry, but this was on the express ground that both parties had acquiesced in the decree; and it was then found as a fact, that “the matter alleged in the parliament against the said Lord Viscount St. Alban's, that he the said Viscount St. Alban's had received from the said Edward Egerton (plaintiff), and after from the said Sir Rowland Egerton (defendant), several sums of money before making the said decree, appeareth to be true.” — Reg. Lib. 19 Nov. 1627. 3 Car. 1.

dicate his innocence, or to palliate the enormity of his guilt. Look back to the time when similar charges were unjustly brought against the virtuous Sir Thomas More. He demonstrated that they were all unfounded in fact, but he allowed that he might have been properly punished if they could have been established by evidence.

As a proof of the public feeling upon the subject, it might be enough to give an extract from an energetic sermon of Hugh Latimer, who continued to be much read in the reign of James, and who preaching against bribery, says, "I am sure this is *scala inferni*, the right way to hell, to be covetous, to take bribes, and pervert justice. If a Judge should ask me the way to hell, I would show him this way. First, let him be a covetous man; let his heart be poisoned with covetousness. Then let him go a little farther, and take bribes; and, lastly, pervert judgment. Lo, there is the mother, and the daughter, and the daughter's daughter. Avarice is the mother: she brings forth bribe-taking, and bribe-taking perverting of judgment. There lacks a fourth thing to make up the mess, which, so help me God, if I were a Judge, should be *hangum tuum*, a Tyburn tippet to take with him; an it were the Judge of the King's Bench, my Lord Chief Justice of England, yea, an it were my Lord Chancellor himself, *to Tyburn with him!* He that took the silver basin and ewer for a bribe, thinketh that it will never come out. But he may now know that I know it, and I know it not alone; there be more beside me that know it. Oh, briber and bribery! He was never a good man that will so take bribes. It will never be merry in England till we have the skins of such."

But from his own mouth let us judge him. *Sic cogitavit Francis-cus de Verulamio*: "For corruption; do not only bind thine own hands or thy servant's hands from taking, but bind the hands of suitors also from offering. For integrity used doth the one; but integrity professed, and with a manifest detestation of bribery, doth the other: and avoid not only the fault, but the suspicion."\*

The crime of judicial bribery had been practised like perjury and theft,—but it was evidently held in abhorrence;—and there never has been a period in our history, when, the suitors in a Court of justice and the Judge being the parties spoken of, an historian could have said, "*Corrumperet corrumpi seculum vocatur.*"

Bacon, doubtless, sometimes decided against those who had bribed him; but this was inevitable where, as sometimes happened, he had received bribes from both sides, or where the bribing party was flagrantly in the wrong, or a common-law Judge had been called in to assist, or where, from the long list of bribes, they could not be all borne in recollection at the moment when the decision was to be pronounced. We are told, indeed, that the offence could not by possibility be committed by him, on account of the purity of his character; but ought we not rather to judge of his character from his actions, than of his actions

\* *Essay, "Of Great Place."*

from his character? Evidence of "habit and repute," I fear, would not be in favour of this defendant. Notwithstanding his gigantic intellect, his moral preceptions were blunt, and he was ever ready to yield to the temptation of present interest. When he received the Great Seal he was still harassed by debts which he had imprudently contracted, and, instead of then trying to discharge them, his love of splendour involved him in increased difficulties. His secretaries and servants found a ready resource in the offers made by the suitors, and when it was once understood that money was available,—till the catastrophe occurred, the system was carried to such a pitch that even eminent counsel, at their consultations, recommended a bribe to the Chancellor.\* His confession ought to be received as sincere, even out of regard to his reputation; for, although the taking of bribes by a Judge be bad, there would be still greater infamy in a man acknowledging himself to be guilty of a series of disgraceful offences which he had never committed, merely to humour the caprice of a King or a minister. But it is absurd to suppose that James and Buckingham would not cordially have supported him if he could have been successfully defended;—for, setting aside friendship and personal regard, which, in courts, are not much to be calculated upon,—they had no object whatever to gain by his ruin,—and it would have been most desirable in their eyes, if possible, to have repulsed the first assault of the Commons on a great officer of the Crown, and to have prevented a precedent which they distinctly foresaw would be dangerous to the royal prerogative,—which was soon actually directed against Buckingham himself, though ineffectually,—and which did mainly assist in the prosecution of a favourite of the son of James, and in bringing on the ruin of his dynasty.

I have thought it becoming to make these observations in the vindication of the great principles of right and justice: but I now have a more pleasing task,—to record the composure, the industry, the energy displayed by Bacon after his fall, and the benefits he continued to confer by his philosophical and literary labours on his country,—though I must again be pained by pointing out instances of weakness and meanness by which he still tarnished his fame.

\* See Aubrey's case in the impeachment. 2 St. Tr. 1101.

## CHAPTER LVI.

## CONCLUSION OF THE LIFE OF LORD BACON.

If Bacon's illness had been feigned when proceedings were pending against him,—after his sentence it was real and alarming,—and for [MAY, 1621.] some time he could not have been removed from York House without hazard of his life. But the first burst of mental agony having expended itself, he recovered his composure, and his health improved. There was a disposition, creditable to all parties, to show him all the consideration and forbearance consistent with the substantial interests of justice. But the sentence of the House of Peers could not be treated as a nullity, although it might be mitigated by the prerogative of mercy in the Crown.

On the last day of May he was carried a prisoner to the Tower. To save him the humiliation of marching through the Strand and the principal streets of the city in custody of constables, a procession contrasting sadly with that which he headed when he proudly rode from Gray's Inn at the head of the nobility and Judges to be installed as Lord Keeper in Westminster Hall,—a barge was privately ordered to the stairs of York House, and, the tide suiting early in the morning so that London Bridge might be conveniently shot, he was quietly conducted by the Sheriff of Middlesex to the Traitor's gate, and there, with the warrant for his imprisonment, delivered to the Lieutenant of the Tower. A comfortable apartment had been prepared for him; but he was overcome by the sense of his disgrace. He might have had some compunctions visitings when he recognised the scene of Peacham's tortures, and we certainly know that he could not bear the thought of spending even a single night near those cells —

“ With many a foul and midnight murder fed.”

He instantly sat down and wrote the following letter to Buckingham:

“ Good my Lord,— Procure the warrant for my discharge this day. Death, I thank God, is so far from being unwelcome to me, as I have called for it (as Christian resolution would permit) any time these two months. But to die before the time of his Majesty's grace, and in this disgraceful place, is even the worst that could be: and when I am dead, he is gone that was always in one tenour a true and perfect servant to his Master, and one that was never authour of any immoderate, no, nor unsafe, no (I will say it), nor unfortunate counsel, and one that no temptation could ever make other than a trusty, and honest, and Christ-loving friend to your Lordship; and (howsoever I acknowledge

the sentence just, and for reformation sake fit,) the justest Chancellor that hath been in the five changes since Sir Nicholas Bacon's time.\* God bless and prosper your Lordship, whatsoever becomes of me.

Your Lordship's true friend, living and dying,  
Tower, 31st May, 1621. FRANCIS ST. ALBAN."

He at the same time wrote a letter to the King which is not preserved, but which we may believe was very touching, from his own representation, that it was "*de profundis*."

Prince Charles, in a manner for which he has not been sufficiently praised, hearing of the deplorable condition of the prostrate Ex-chancellor, took a more lively interest in procuring his liberation than older councillors, who were afraid of giving offence to the parliament. Nothing effectual could be done on that day; but on the 1st of June, a warrant under the sign-manual was made out for the noble prisoner's discharge. It was arranged that Sir John Vaughan, who held an office in the Prince's household, and lived in a beautiful villa at Parson's Green, should receive him, and that he should continue in retirement there till parliament was prorogued.† The very same day he returned his warmest thanks to the Prince:—"I am much beholding to your Highness's worthy servant, Sir John Vaughan, the sweet air and loving usage of whose house hath already much revived my languishing spirits. I beseech your Highness thank him for me. God ever preserve and prosper your Highness."‡

The buoyancy of his spirit immediately returned, and in three days after he thus writes to Buckingham. "I heartily thank you for getting me out of prison; and, now my body is out, my mind nevertheless will be still in prison till I may be on my feet to do his Majesty and your Lordship faithful service. Wherein your Lordship, by the grace of God, shall find that my adversity hath neither spent nor pent my spirits."§

But his creditors, finding out where he was, became very troublesome to him. He wished to have been allowed to return to York House and to remain there till he had made some settlement of his affairs; and he sent his faithful secretary, Meautys, who served him in his adversity with fresh zeal, to obtain this favour; but, although the Prince joined in the solicitation, it was refused — on the ground that he had been condemned "not to come within the verge of the Court." He was ordered immediately to take up his residence at Gorhambury, and not to move elsewhere till his Majesty's pleasure should be farther notified to him.

\* He tries to delude himself into some sort of self-complacency from the thought that his decrees were sound in spite of all the bribes he had accepted, and that he sold justice, not injustice.

† Camden says, "Ex-cancellarius in arcem traditur; post *biduum* deliberatus;" but he must reckon time according to the manner of the Jews.

‡ Works, v. 552.

§ Ibid. v. 554.

Thither he accordingly repaired ; but the place had a very different aspect to him from what it had presented when, accompanied by the great and the witty, he retreated to its shades after the splendid fatigues of office. He found this solitude,—without cheering retrospect or anticipation,—most painful,—and he prepared a petition to the House of Lords, that he might be released from it. To move their compassion he says,—“ I am old, weak, ruined, in want, a very subject of pity. My only suit to your Lordship is to show me your noble favour towards the release of my confinement — to me, I protest, worse than the Tower. There I could have company, physicians, conference with my creditors and friends about my debts, and the necessities of my estate, helps for my studies and the writings I have in hand. Here I live upon the sword point of a sharp air, endangered if I go abroad, dulled if I stay within, solitary and comfortless, without company, banished from all opportunities to treat with any to do myself good and to help out any wrecks ; and that which is one of my greatest griefs, my wife, that hath been no partaker of my offending, must be partaker of this misery of my restraint.” After imploring them to intercede for him, he thus concludes :—“ Herein your Lordships shall do a work of charity and nobility ; you shall do me good ; you shall do my creditors good, and it may be you shall do posterity good, if, out of the carcass of dead and rotten greatness, as out of Samson’s lion, there may be honey gathered for the use of future times.” But the public indignation had not yet sufficiently subsided to permit his restoration to society, and he was obliged to shut himself up at Gorhambury till the spring of the following year.\*

He was for some time most irksomely occupied with his pecuniary accounts ; and he sometimes found it difficult to provide for the day that was passing over him. To Buckingham he writes, — “ I have lived hitherto upon the scraps of my former fortune ; and I shall not be able to hold out longer.” To the King, — “ The honours which your Majesty hath done me have put me above the means to get my living, and the misery I am fallen into hath put me below the means to subsist as I am.”

These representations produced such an impression that an arrangement was made, which, with common prudence, might have enabled him to live in comfort during the rest of his days. The fine of 40,000*l.* was in truth remitted ; but, to protect his property from his more importunate creditors, it was assigned to trustees for his benefit. A pension was granted to him of 1200*l.* a year ; he drew 600*l.* from the Alienation office, and the rents of his estate amounted to a further sum of 700*l.* a year, making altogether an income equal, probably, to that of many of the hereditary nobility.

The nation would not yet have endured an entire remission of his

\* Buckingham, in the King’s name, sent him a refusal to reside in London,— “ which being but a small advantage to you, would be a great and general distaste, as you cannot but easily conceive, to the whole state.”

sentence, whereby he would have been entitled to sit in parliament, and to hold office under the Crown ; but the King signed a warrant for a qualified pardon to be made out for him. This was opposed by the new Lord Keeper, who began to be alarmed lest his predecessor might ere long be his successor, and wrote him a letter, proposing to suspend the sealing of the pardon till after the close of the ensuing session of parliament. Williams, at the same time, strongly remonstrated with Buckingham against it — suggesting that the two Houses would consider themselves mocked and derided by such a proceeding. He likewise attempted to do Bacon a permanent injury, by representing that he had been guilty of a gross fraud in which the fine had been kept alive and assigned for his benefit.\*

This malicious attempt was defeated ; a peremptory order from the King came to speed the pardon, and, on the 17th of October, it passed the Great Seal. William's fears were very natural ; for Bacon certainly had now hopes of recovering his ascendancy. When he wrote to the King — counting a little upon royal ignorance — with this view he did not scruple slightly to pervert history, that he might quote parallel cases of reintegration : " Demosthenes was banished for bribery of the highest nature, yet was recalled with honour. Marcus Lucius was condemned for exactions, yet afterwards made consul and censor. Seneca was banished for divers corruptions, yet was afterwards restored, and an instrument in that memorable *Quinquennium Neronis*."†

Although he still cast a longing, lingering look behind at the splendours of office, and the blandishments of power, he now magnanimously and vigorously resumed his literary labours, — inspired by the nobler ambition of extending the boundaries of human knowledge, and enlarging the stores of material and intellectual enjoyment.

Great expectation was excited, both at home and on the Continent, by the announcement that he was engaged upon an historical work, " The Life and Reign of Henry VII."‡ He finished it at Gorhambury, and was allowed to come to London to superintend the printing of it in the beginning of 1622. It was dedicated to the Prince as a mark of gratitude for the generous interest Charles had taken in his misfortunes. He sent a copy to the Queen of Bohemia, with a letter strongly

\* " The pardoning of his fine is much spoken against, not for the matter (for no man objects to that), but for the manner, which is full of knavery, and a wicked precedent. For by this assignation of his fine he is protected from all his creditors, which I dare say was neither his majesty's nor your lordship's meaning. His lordship was too cunning for me. He passed his fine (whereby he hath deceived his creditors) ten days before he presented his pardon to the seal." — *Williams to Buckingham*.

† *Works*, v. 559.

‡ A learned Italian, writing to the Earl of Devonshire, says he should impatiently look for the promised history of Lord Chancellor Bacon, as a thing that would be singularly perfect, as the character of Henry VII. would exercise the talent of his divine understanding. — *Rawley's Life of Bacon*.

showing the feelings of a disgraced minister: "Time was, I had honour without leisure; and now I have leisure without honour."

Of all his works, this gave the least satisfaction to the public; and after recently again perusing it, I must confess that it is hardly equal to Sir Thomas More's History of Richard III., or to Camden's of Queen Elizabeth,—leaving the reproach upon our literature of being lamentably deficient in historical composition, till the days of Hume, Robertson, and Gibbon. Some have accounted for Bacon's failure by supposing a decline in his faculties; but he afterwards showed that they remained in their pristine vigour to the very close of his career. The true solution probably is, that he undertook the subject to please the King,—with a view of doing honour to the ancestor of the reigning family, who had united the Roses by his own marriage, and had united the kingdoms by the marriage of his daughter. The manuscript was from time to time submitted to James, and he condescended to correct it. Bacon was therefore obliged by anticipation to consider what would be agreeable to the royal censor, and could neither use much freedom with the character of his hero, nor introduce any reflections inconsistent with the maxims of government now inculcated from the throne.\* He gives us therefore a tame chronological narrative, filled up with proclamations and long speeches, descending to such minute facts as a call of serjeants, and not abounding in the delineations of men and manners which might have been expected from so great an artist.†

This task being performed, he returned to philosophy, and was "himself again." It is most consolatory to think of the intervals of pleasure and contentment which he now enjoyed. He was compared to a mariner, who, being wrecked on an island with a rocky and savage shore, on going into the interior finds it covered with beautiful verdure, watered with clear streams, and abounding with all sorts of delicious fruits.

In the following year he gave to the world his celebrated treatise, "De Augmentis Scientiarum," which still raised his reputation among his countrymen, and was not only republished on the Continent, but was immediately translated into French and Italian. His "Advancement of Learning" was the basis of this work; but he recast it, and enriched it and improved it to such a degree, that he again made a sensation among the learned, as if a new prodigy had suddenly appeared in the world.

He soon followed this up with his "Historia Vitæ et Mortis," with several of his minor publications, and with a new edition of his Essays, adding several new ones of great value, and giving striking proof of his incessant industry and the fertility of his genius. As far as his literary fame is concerned, his political misfortunes are not to be re-

\* His letters, accompanying the copies he sent to the King, Buckingham, and the Lord Keeper, are still preserved; but they contain nothing beyond commonplace compliments.

† James even made him expunge a legal axiom, "that on the reversal of an attainder the party attainted is restored to all his rights."

gretted. More than any man who ever lived he could mix refined speculation with grovelling occupations ; but if he had continued to preside at the Council Board, in the Star Chamber, in the Court of Chancery, and on the Woolsack, till carried off by disease, we should have had but a small portion of those lucubrations which illustrated the five last years of his life. In his happier mood, no one could make a juster estimate of the superiority, both for present enjoyment and lasting fame,—of success in literature and science, over the glittering rewards of vulgar ambition.\*

But he was now struggling with penury. Though his income was large, his old debts were very heavy ; and one of his weaknesses was a love of show. He had been obliged to sell York House, with all its splendid furniture, — very much to reduce his establishment at Gorhambury, and to confine himself chiefly to his “lodgings” in Gray’s Inn. Yet when he came into public, or made a journey into the country, he still insisted on appearing in a handsome equipage, attended with a numerous retinue. About this time, Prince Charles falling in with him on the road, exclaimed with surprise, “ Well ! do what we can, this man scorns to go out in snuff.” The consequence was, that his embarrassments multiplied upon him, instead of being cleared off. He was obliged to write (very irregularly) to the Lord Keeper, praying him not to issue an extent on a security he had given to a goldsmith for a shop debt twelve years before.† He often wanted funds for his most pressing necessities ; and was obliged to borrow small sums from his friends. The steadiest of these was Sir Julius Cæsar, the Master of the Rolls, who had married his niece,—and now not only lent him money, but occasionally received him into his house in Chancery Lane. There is even a tradition, that not liking the beer of Gray’s Inn, and not having credit with the publicans of Holborn, the Ex-chancellor sent to borrow a bottle of beer from Grenville Lord Brooke, who lived in the neighbourhood, and that having done this so often, the butler had at last orders to deny him.‡ Yet he would not allow his woods to be cut down at Gorhambury, from which he might have had a handsome supply ;—exclaiming, “I will not be stripped of my feathers.”§

The provostship of Eton becoming vacant, he pressingly applied for the situation, in terms which should have insured his success. “ It were a pretty cell for my fortune. The College and school, I do not doubt but I shall make to flourish.”|| Every one must wish that

\* Several Englishmen owe their distinction as authors to their crosses as politicians. If my “Lives of the Chancellors” gain any celebrity, my humble name may be added to the class adorned by Clarendon and Bolingbroke, I shall then be highly contented with my lot. I do not undervalue great judicial reputation, but I would rather have written Hyde’s character of Falkland, than have pronounced the most celebrated judgments of Lord Hardwicke or Lord Eldon.

† May 30, 1622.

‡ Wilson’s Hist. James I. Kennet, vol. ii, 736.

§ Ibid. || Ibid.

he had succeeded ; not only from a kindly feeling towards him, but for the benefit of this great seminary, and the cause of good education in England. The Lord Keeper spitefully interposed with his wise saws. “It is somewhat necessary to be a good scholar ; but more that he be a good husband, and a careful manager, and a stayed man ; which no man can be that is so much indebted as the Lord St. Alban.”\* A prior promise to Sir William Beecher was the first excuse ; but the place was finally jobbed to Sir Henry Wotton, on his releasing a reversionary grant of the Mastership of the Rolls, to be conferred on a rapacious dependent of Buckingham, who could still do him service. He received the news of this appointment while he was dictating to Rawley, his chaplain and secretary ; and when the messenger was gone, he said calmly, “Well, Sir, yon business won’t go on ; let us go on with this, *for this is in our power* ;” — and then he dictated to him afresh for some hours without the least hesitation of speech, or interruption of thought.

When fresh grievances and conflicts had made the people forget [A. D. 1623.] Bacon’s offences and his punishment, the part of his sentence, “that he should not come within the verge of the Court,” was disregarded ; and at his earnest entreaty, the King agreed to see him privately at Whitehall. We have an account of what passed at this interview by Bacon himself, which he drew up and sent to the King, that the impression might be more lasting. Amidst a great deal of flattery heaped upon his Majesty, he seems not to have overlooked his own merits and services ; dwelling as he was often wont to do on the assertion, that “no measure he had ever brought forward had miscarried, and that though unfortunate for himself, he had always been successful for the Crown.” He then strongly pressed that he might be again employed ; promising, that in that case, “he would so live and spend his time, as neither discontinuance should disable him, nor adversity discourage him, nor any thing he did should bring any scandal or envy upon him.” If he cannot have public employment, he begs that his opinion may be taken, or that propositions may be required of him privately, as he should be glad even to be a labourer or pioneer in the service. Lastly, he prayed that he might serve *calamo*, if not *consilio* ; and that the King, an universal scholar, would appoint him some new task or literary province, to which he might devote himself for his Majesty’s honour. Upon this occasion he seems to have aimed several blows at the more prosperous courtiers, who were still basking in the sunshine of royal favour : “There be mountebanks as well in the civil body as in the natural. I ever served his Majesty with modesty ; no shouldering, no undertaking. Of my offences, far be it from me to say, *dat veniam corvis vexat censura columbas* ; but I will say that I have good warrant for, *they were not the greatest offenders in Israel upon whom the tower of Siloam fell*.” He

\* Williams to Buckingham, 11 April, 1623.

contended that his recall to office would rather be well received by the public: "For it is an almanack of the last year, and, as a friend of mine said, the Parliament died penitent towards me." To the objection, that a miracle only could restore him, he answers, "Your Majesty has power; I have faith; therefore a miracle may soon be wrought." His last observation, which effects to be merry, is full of melancholy. "I would live to study, and not study to live; yet I am prepared for *date obolum Belisario*; and I that have borne a bag,\* can bear a wallet." But Buckingham had found agents whom he considered more useful and Bacon remained in disgrace.

During the romantic expedition of "Baby Charles," and "the Dog Steenie," to Madrid to hasten the match with the Infanta, he renewed his instances with the King, but even with less prospect of success, for the royal word had been passed that no change should be made till their return.

On this event, Bacon sent a letter of congratulation to Buckingham, concluding with the prayer, "My Lord, do some good work upon me that I may end my days, in comfort, [Dec. 1623.] which nevertheless cannot be complete, except you put me in some way to do your noble self service.†

Still, while the nation was agitated by the discussion between the King and the Commons, by the sudden dissolution of [A. D. 1624.] parliament, by the unhappy fate of the Palatinate, by the intrigues about the Spanish match, by the struggle between Buckingham and Bristol, by the new alliance with France and the impeachment, in the new parliament, of the Lord Treasurer Middlesex,—Bacon was condemned to look on as an idle spectator, or to shut himself up in Gray's Inn like a cloistered friar.

What he felt most severely, was his exclusion from parliament. During his long career in the House of Commons, and during the short time he had sat in the House of Peers, he had enjoyed the consequence of being the best debater of his time, and he was confident that, if the disqualification imposed by his sentence were removed, he not only would have an agreeable and creditable occupation in again taking a part in parliamentary business, but that the weight and importance he should soon acquire would force him back into high office. This speculation was very reasonable. Never sat so formidable an Ex-chancellor. In the first encounter he must have utterly extinguished the Right Reverend the Lord Keeper Williams, the present occupant of the woolsack. He might at first have had to encounter a little coldness and shyness; and there might have been a few awkward allusions to the cause of his long absence from the House: but from the amenity of his manners, his unrivalled eloquence, and his powers of sarcasm, he would soon have been courted, feared, and flattered. The past being forgotten by general consent he would

\* The bag or purse containing the Great Seal.

† Works, v. 577.

have swayed the deliberations of the assembly, and the government must have secured his support on his own terms.

Perhaps some such contemplations mixed themselves up with his [JULY 30, 1624.] affected humility, when he thus wrote to the King: “I prostrate myself at your Majesty’s feet, I, your ancient servant, now sixty-four years old in age, and three years five months old in misery. I desire not from your Majesty means, nor place, nor employment, but only, after so long a time of expiation, [A. D. 1624.] a complete and total remission of the sentence of the Upper House, to the end that blot of ignominy may be removed from me, and from my memory with posterity; that I die not a condemned man, but may be to your Majesty, as I am to God, *nova creatura*. Look down, dear Sovereign, upon me in pity. This my most humble request granted, may make me live a year or two happily; and denied, will kill me quickly.”\*

This appeal was effectual, and the King directed a warrant to the Attorney General, whereby, after reciting the sentence upon the late Lord Chancellor, his former services, *how well and profitably he had spent his time since his trouble*, his Majesty’s desire to remove from him that blot of ignominy which yet remained upon him of incapacity and disablement, required a pardon to be made out in due form of the whole sentence.

This was accordingly done, and Bacon was once more entitled to appear in his robes on the Viscount’s bench, and to enjoy all the rights of the Peerage. But parliament did not again assemble during the remainder of this reign; and although he was summoned to the parliament which met on the accession of Charles I., he was then so broken down by age and sickness, that he was unable to take his seat, and all his visions of power and greatness had for ever fled.

Surmounting the feebleness of frame which had prevented him from partaking in schoolboy sports, his constitution never was robust; from severe study the marks of age were early impressed upon him, and his mental sufferings had greatly assisted the attacks of disease by which he was periodically visited. He continued, however, to carry on a noble struggle against all his ills and infirmities. He published new editions of his works, and, with assistance, translated those in English into Latin,—from the mistaken notion that this would for ever continue the familiar dialect of all men of education, and that only fleeting fame could be acquired by composing in any modern tongue. His English Essays and Treatises will be read and admired by the Anglo-Saxon race all over the world, to the most distant generations; while since the age which immediately succeeded his own, only a few recondite scholars have penetrated and relished the admirable good sense enveloped in his crabbed Latinity.

To show the versatility of his powers,—in imitation of Julius

Caesar, he wrote a "Collection of Apothegms," or a "Jest Book." This is said "to have been dictated by him in one rainy day, and to be the best extant." That it was begun in a rainy day is very probable, but it is evidently the result of much labour, and of repeated efforts of recollection. He himself, after praising these *mucrones verborum*, says, "I have for my own recreation, amongst more serious studies, collected some few of them,"—language not at all applicable to one continuous dictation. As to its "excellence," the world is certainly much indebted to it, for it contains many most excellent *mots* of the author and his contemporaries, which otherwise would have perished; but they are mixed up with not a few platitudes, which do not give us a high notion of the relish for true wit among the lawyers and statesmen of Elizabeth and James,—and there are editions of "Miller the Jociculturist," which I should considerably prefer to it.\*

In performance of his promise to the King, he actually began the stupendous undertaking of framing a "Digest of the Laws of England;" but finding "it was a work of assistance, and that which he could not master by his own forces and pen, he soon laid it aside."† He seems to have been conscious that he did not excel in historical composition; for having been urged to write a "History of Great Britain," and a "History of the reign of Henry VIII," he never got beyond the first chapter of either. His last publications in James's reign, were his "Dialogue touching an Holy War,"—an abstract speculation upon the grounds of justifiable warfare among Christians,—and "Considerations touching a War with Spain, inscribed to Prince Charles,"—party pamphlets for the Duke of Buckingham,—palliating the perfidy with which he had broken off negotiations with the Spanish government, and the folly with which he was involving the country in useless hostilities. This help was much wanted, for the adherents of Bristol and Pembroke were multiplying rapidly, and deep discontent was spreading among all ranks of society.

While Bacon looked for his reward, the scene suddenly shifted. The Sovereign whom he had so long despised and flattered was no more, and a new reign had [MARCH 27, 1625.] commenced.

Bacon no doubt was in hopes that Charles, who had shown such attachment to him, and whom he had so sedulously cultivated by letters, dedications, and messages, being on the throne, Buckingham, who had kept the prince in a state of great thraldom, would be dismissed, and he himself might be placed at the helm of affairs. Even

\* In a very witty *jeu d'esprit*, entitled JUDICIAL ANTICIPATION, published in the year 1812, by two friends of mine then at the bar, who have since graced the bench, a counsel pleading before Lord Ellenborough is supposed to cite "I Miller, 96." "L—d E\*\*\*\*\*. Is your case in Miller's Gardener or in Miller's Jest Book? Do you intend the *horti-* or the *joci-culturist*?"

† Preface to Holy War.

if Buckingham retained his ascendancy, a hope remained to the Ex-chancellor from a growing coldness between him and Lord Keeper Williams. But what was Bacon's mortification to see the despotism of Buckingham still more absolute if possible under the son than it had ever been under the father, and the Great Seal restored to the keeping of the Welshman, whom he invariably despised, and whom he had such reason to dislike !

He felt the deepest disappointment\*; a severe attack of illness followed, and he resolved to renounce politics—in which he bitterly regretted that he had ever engaged,—uttering this lamentation,—“The talent which God has given me I have misspent in things for which I was least fit.” He published no more pamphlets; he wrote no more letters of solicitation to Buckingham; he did not seek to disturb by any memorial of himself the festivities of the young Sovereign on his marriage with his French bride; he declined attending the coronation as a Peer, which he was entitled to do, taking precedence of all the ancient Barons; and when the writ of summons to the parliament requiring him to be present to counsel the King *circa ardua regni* was delivered to him, he said,—“I have [A. D. 1625.] done with such vanities.” While squabbles were going on in parliament, first at Westminster and then at Oxford, whither it was necessary to adjourn on account of the plague,—and the nation was in a flame by the abrupt dissolution,—he remained in retirement at Gorhambury, and as far as his exhausted frame would permit, dedicated himself to those studies which he regretted had been so often interrupted by pursuits which could neither confer internal peace nor solid glory.

He even heard without emotion, in the following November, that [Nov. 1625.] preparatory to the summoning of another parliament, Lord Keeper Williams had been dismissed, and that, without any application or communication to himself, the Great Seal had been transferred to Sir Thomas Coventry. He foresaw that his earthly career was drawing to a close, and he prepared to meet his end with decency and courage. He was reconciled to Bishop Williams, whom he forgave the various evil turns he had formerly so bitterly complained of, and even now admitted into his confidence.

On the 19th of December, 1625, with his own hand he wrote his last will,—which contains touches of true pathos and sublimity. After some introductory words, he thus proceeds: “For my burial, I desire it may be in St. Michael’s Church, near St. Alban’s: there was my mother buried, and it is the parish church of my mansion-house at Gorhambury, and it is the only Christian church within the walls of old Verulam. For my name and memory, I leave it to men’s charitable speeches, and to foreign nations, and the next ages.” He then gives directions respecting his published works, and leaves two volumes

\* Even in his last will he cannot conceal his sense of the inconstancy of Charles, whom he thus describes: “My most gracious Sovereign, who ever when he was Prince was my patron.”

of his Speeches and Letters, which he had collected, to the Bishop of Lincoln and the Chancellor of the Duchy of Lancaster, to be dealt with as they should think fit. He bequeaths many legacies to his friends, and directs the surplus of his property, after payment of debts and legacies, to be laid out in founding lectureships in the Universities.

Laudably anxious about his future fame, while he was making Christian preparation for the great change which approached, he wrote a few days after to the Bishop of Lincoln, to inform him of the trust he wished him to undertake : — “ I find that the ancients, as Cicero, Demosthenes, Plinius Secundus, and others, have preserved both their orations and their epistles. In imitation of whom I have done the like to my own, which nevertheless I will not publish while I live ; but I have been bold to bequeath them to your Lordship and Mr. Chancellor of the Duchy. My speeches perhaps you will think fit to publish : the letters many of them touch too much upon late matters of state to be published ; yet I was willing they should not be lost.” The Bishop said in his answer, — “ I do embrace the [Dec. 31, 1625.] honour with all thankfulness, and the trust imposed upon me with all religion and devotion.” At the same time, while he does justice to Bacon’s oratorical powers, he pretty plainly intimates that his fame would not be raised by the publication of his letters, — a criticism in which I entirely concur, for they in general seem to be written in a stiff, formal, ungraceful style, — and when he tries to be light and airy, we have such a botch as might have been expected if Horace Walpole had been set down to write the *Novum Organum*. The felicitous epistolary tone had not yet been caught from the French ; and it was not till near half a century afterwards that there were any good letters in our language.

Though his body was now much enfeebled, his mental activity never left him. He wrote some religious tracts, and he employed himself in a metrical translation, into English, of some of the Psalms of David, — showing by this effort, it must be confessed, more piety than poetry. His ear had not been formed, nor his fancy fed, by a perusal of the divine productions of Surry, Wyat, Spenser, and Shakspeare, or he could not have produced rhymes so rugged, and turns of expression so mean. Few poets deal in finer imagery than is to be found in the writings of Bacon ; but if his prose is sometimes poetical, his poetry is always prosaic.

This, the last of his works which he lived to finish, he dedicated to a private friend whom he much valued, who was a divine, and himself a writer of sacred poetry ; thus addressing him : — “ It being my manner for dedications to choose those that I hold most fit for the argument, I thought that in respect of divinity and poesy met, whereof the one is the matter the other the style of this little writing, I could not make better choice.”\*

\* Mr. George Herbert. Works, ii. 552.

"By means of the sweet air of the country he had obtained some degree of health\*" in the autumn of 1625; but a dreadfully severe winter followed, which aggravated his complaints and brought him [A. D. 1626.] very low. In the beginning of the following year he confined himself to those noble studies which he had long sacrificed to professional drudgery and courtly intrigue.

Summoned as a Peer to Charles's second parliament, which met in February, he declined to take his seat, or to interest himself in the struggles going on between the King and the Commons, and between Bristol and Buckingham. But the firmness and magnanimity which he displayed gave to this last sad stage of his life a dignity beyond what office and power could bestow. His friends affectionately gathered round him, showing him every mark of attachment and respect; the public, forgetting his errors, anticipated what was due to his "name and memory;" and the learned in foreign countries eagerly inquired after the great English philosopher, who was hardly known to them as a Judge or a Minister. It was from seeing and conversing with him at this period that Ben Jonson wrote, "*ex imo corde*," what may be considered the finest panegyric, because the most natural and most pathetic, that his high qualities have ever called forth. "My conceit of his person was never increased toward him by his place or honours, but I have and do reverence him for the greatness that was only proper to himself, in that he seemed to me ever by his works one of the greatest men, and most worthy of admiration, that had been in many ages: in his adversity I ever prayed that God would give him strength,—for greatness he could not want;—neither could I condole in a word or syllable for him, as knowing no accident could do harm to virtue, but rather help to make it manifest."

Many distinguished foreigners came to England for the express purpose of seeing and conversing with him.† Gondomar, the Spanish ambassador, having returned to his own country, kept up a close correspondence with him till the time of his death.

The Marquis D'Effiat, who brought over the Princess Henrietta Maria, distinguished for his elegant accomplishments no less than his high rank, went to Gray's Inn to pay his respects to the man whose writings he had studied and admired. Bacon, sick in bed, did not like to turn him away, but received him with the curtains drawn. "You resemble the angels," said the Ambassador; "we hear those beings continually talked of; we believe them superior to mankind; and we never have the consolation to see them."

His love of science never was more eager and unwearied than now, amidst the evils which surrounded him, and which he knew he

\* Letter to Mr. Palmer, Oct. 29, 1625.

† "Viri primarii aliquot, dum adhuc in vivis fuit, nullam aliam ob causam huc in Angliam transfretarunt, quam ut eum conspicirent et cum eo coram loquendi opportunitatem captarent." —Rawley.

could not overcome. In contemplation of a new edition of his "Natural History," he was keenly examining the subject of antiseptics, or the best means of preventing putrefaction in animal substances. "The great apostle of experimental philosophy was destined to become its martyr." It struck him suddenly, that flesh might as well be preserved by snow as by salt. From the length and severity of the winter, he expected that snow might still, in shaded situations, be discovered on the ground. Dr. Wetherborne, the King's physician, agreed to accompany and assist him in a little excursion to make the experiment. At Highgate they found snow lying behind a hedge in great abundance, and, entering a cottage, they purchased a fowl lately killed, which was to be the subject of the experiment. The philosopher insisted on stuffing the body of the fowl with snow with his own hands. Soon after this operation, the cold and the damp struck him with a chill, and he began to shiver. He was carried to his coach, but was so seriously indisposed that he could not travel back to Gray's Inn, and he was conveyed to the house of his friend, the Earl of Arundel, at Highgate. There he was kindly received, and, out of ceremony, placed in the state bed. But it was damp, not having been slept in for a year before, and he became worse. A messenger was despatched for his old friend and connection, Sir Julius Cæsar, who immediately came to him. Next day he was rather better, and was able to dictate the following letter to the Earl of Arundel, which proved his dying effort: —

"My very good Lord,

"I was likely to have had the fortune of Caius Plinius the elder, who lost his life by trying an experiment about the burning of the Mount Vesuvius. For I was also desirous to try an experiment or two, touching the conservation and induration of bodies. As for the experiment itself, it succeeded excellently well; but in the journey between London and Highgate I was taken with such a fit of casting as I knew not whether it were the stone, or some surfeit of cold, or indeed a touch of them all three. But when I came to your Lordship's house I was not able to go back, and therefore was forced to take up my lodging here, where your housekeeper is very careful and diligent about me, which I assure myself your Lordship will not only pardon toward him\*, but think the better of him\* for it. For indeed your Lordship's house was happy to me; and I kiss your noble hands for the welcome which I am sure you give me to it.

"I know how unfit it is for me to write to your Lordship with any other hand than my own; but, by my troth, my fingers are so disjointed with this fit of sickness that I cannot steadily hold a pen."

\* *Sic.* Housekeepers then were of the male sex. — "To be said an honest man and a good housekeeper." — *Shakespeare.* The word had changed its gender in the reign of Queen Anne:

"Call the old housekeeper, and get *her*  
To fill a place for want of better." — *Swift.*

Thither he accordingly repaired ; but the place had a very different aspect to him from what it had presented when, accompanied by the great and the witty, he retreated to its shades after the splendid fatigues of office. He found this solitude, — without cheering retrospect or anticipation, — most painful, — and he prepared a petition to the House of Lords, that he might be released from it. To move their compassion he says, — “ I am old, weak, ruined, in want, a very subject of pity. My only suit to your Lordship is to show me your noble favour towards the release of my confinement — to me, I protest, worse than the Tower. There I could have company, physicians, conference with my creditors and friends about my debts, and the necessities of my estate, helps for my studies and the writings I have in hand. Here I live upon the sword point of a sharp air, endangered if I go abroad, dulled if I stay within, solitary and comfortless, without company, banished from all opportunities to treat with any to do myself good and to help out any wrecks ; and that which is one of my greatest griefs, my wife, that hath been no partaker of my offending, must be partaker of this misery of my restraint.” After imploring them to intercede for him, he thus concludes : — “ Herein your Lordships shall do a work of charity and nobility ; you shall do me good ; you shall do my creditors good, and it may be you shall do posterity good, if, out of the carcass of dead and rotten greatness, as out of Samson’s lion, there may be honey gathered for the use of future times.” But the public indignation had not yet sufficiently subsided to permit his restoration to society, and he was obliged to shut himself up at Gorhambury till the spring of the following year.\*

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the brier with the thistle, which can wound deepest? but as the vine with the olive, which bears best fruit?"

His derivation of all physical and moral truth from mythological fables in his "Wisdom of the Ancients," is often forced and fetched; but no where do we trace more striking proofs of his imagination, and his power of discovering resemblances and differences, — in which consist wit and wisdom.

His Latin style, though pointed and forcible, is not sweet nor pure; but he has left us some of the best specimens of genuine Anglicism, and the few antiquated words and turns of expression which we find in his writings, as in the contemporary translation of the Bible, only give additional weight and solemnity to the sentiments which he expresses. Addison, who knew what good composition was, talks with rapture of his "beautiful lights, graces, and embellishments."

In considering his private character, we must begin with the formidable admission that he was without steady attachments as well as aversions, and that, regardless of friendship or gratitude, he was governed by a selfish view of his own interest. But he was perfectly free from malignity; he was good-natured and obliging; when friends stood between him and his object, — sacrificing them to the necessary extent, — he did them as little further damage as possible, — and instead of hating those whom he had injured, he was rather disposed to be reconciled to them, and to make them amends by courtesy, if he could not render them real service.

I find no impeachment of his morals, — and he certainly must have been a man of very great temperance, for the business and studies through which he went would be enough to fill up the lives of ten men who spend their evenings over their wine, and awake crapulous in the morning. "Nullum momentum aut temporis segmentum perire et intercidere passus est\*," — knowing that if he took good care of sections of an hour, entire days would take care of themselves.

All accounts represent him as a most delightful companion, adapting himself to company of every degree, calling, and humour, — not engrossing the conversation, — trying to get all to talk in turn on the subject they best understood, and not disdaining to light his own candle at the lamp of any other.† He was generally merry and playful, bringing out with great effect his unexhausted store of jests, new and old, and remembering that "to be free-minded and cheerfully disposed at

\* Rawley.

† "Convivantium neminem aut alias colloquentium pudore suffundere glorie sibi duxit, sicut nonnulli gestiunt; sed facultates eorum qualescumque fovere et provehere parates erat. Quin et sermonis licentiam sibi soli arripere in more non erat; sed et alii simul consentibus libertatem et vicissitudinem loquendi permettere: hoc etiam addendo, quod in arte unumquemque propria lubentissime audiret, et ad ejusmodi dissertationem pellicere et provocare consueverit. Ipse autem nullius observations contempnit; sed ad candelam cuiuslibet lampada suam accendere non erubuit." — Rawley. This passage seems to have escaped the attention of two illustrious writers who have drawn his character.!

hours of meat, and of sleep, and of exercise, is one of the best precepts of long lasting.”\*

If he was not very steady in his friendships, where disturbed by ambition or rivalry, it should be recollected that he was ever kind to his servants and dependants; and the attachment of Meautys, who remained devotedly true to him in all his fortunes, is equally honourable to both parties.

He was rather fanciful about his health, preferring meats which bred “juices substantial and less dissipable,” — taking three grains of nitre daily in warm broth, and an infusion of rhubarb into white wine and beer once in six or seven days, immediately before his meal, “that it might dry the body less.”

To show something supernatural about such a man, for the purpose of raising our wonder and admiration, — Rawley, his chaplain and secretary, asserts, — and his subsequent biographers have repeated, — that at every change or any eclipse of the moon he invariably fainted, although he was not aware that such an event was to take place; but that he recovered as soon as the sun’s rays again illumined her disc.† As no instance is recorded of his ever having fainted in public, or put off the hearing of a cause on account of the change of the moon, or of any approaching eclipse, visible or invisible, — and neither himself nor any of his other contemporaries refer to any such infirmity, and such a “delicacy of temperament” is somewhat incredible, — we must set down the story to the invention or easy credulity of the man who thought that it might be explained by his hero’s “lunar horoscope at the moment of his birth.”

A more serious matter is the charge brought against him of infidelity. At one time in his youth, he seems not only to have been sceptical, but to have been disposed openly to insult the religion of others. Notwithstanding the stout denial that he was the author of the “Paradoxes,” I cannot doubt that the publication is from his pen, and I cannot characterise it otherwise, than as a profane attempt to ridicule the Christian faith. But I suspect that he is describing the history of his own mind when he says, “It is an assured truth, and a conclusion of experience, that a little or superficial knowledge of philosophy may incline the mind of man to atheism, but a further proceeding therein doth bring the mind back again to religion: for in the entrance of philosophy, when the second causes, which are next unto the senses, do offer themselves to the mind of man, if it dwell and stay there, it may induce some oblivion of the highest cause; but when a

\* Rawley. Oh for a Boswell to have recorded the conversation, when he had Raleigh, Ben Jonson, Selden, and Gondomar for guests!

† “Verisimile est lunam in themate ejus natalitio præcipuum aliquem locum (veluti in horoscopo aut medio coeli) tenuisse. Quoties enim luna defecit aut eclipsim passa est, repentina animi deliquio correptus fuit: idque etiam si nullam defectionis lunaris notitiam præviam habuisset. Quamprimum autem luna lumini priori restituta fuisset, confessim resocillatus est et convaluit.” — Rawley.

man passeth on further, and seeth the dependence of causes and the works of Providence, — then, according to the allegory of the poets, he will easily believe that the highest link of Nature's chain must needs be tied to the foot of Jupiter's chair.”\*

He certainly received a most pious education ; and if his early religious impressions were for a time weakened or effaced by his intercourse with French philosophers, or his own first rash examination of the reasons of his belief, I am fully convinced that they were restored and deepened by subsequent study and reflection. I rely not merely on his “Confession of Faith,” or the other direct declarations of his belief in the great truths of our religion, (although I know not what right we have to question his sincerity,) but I am swayed more by the devotional feelings which from time to time, without premeditation or design, break out in his writings, and the incidental indications he gives of his full conviction of the being and providence of God, and of the Divine mission of our blessed Saviour. His lapses from the path of honour afford no argument against the genuineness of his speculative belief. Upon the whole, we may be well assured that the difficulties which at one time perplexed him, had been completely dissipated ; his keen perception saw as clearly as it is ever given to man in this state to discover — the hand of the Creator, Preserver, and Governor of the universe ; — and his gigantic intellect must have been satisfied with the consideration, that assuming the truth of natural and of revealed religion, it is utterly inconsistent with the system of human affairs, and with the condition of man in this world, that they should have been more clearly disclosed to us.

Among his good qualities it ought to be mentioned, that he had no mean jealousy of others, and he was always disposed to patronise merit. Feeling how long he himself had been unjustly depressed from unworthy motives, he never would inflict similar injustice on others, and he repeatedly cautions statesmen to guard against this propensity. “He that plots to be a figure among ciphers is the decay of a whole age.”

He retained through life his passion for planting and gardening, and, when Chancellor, he ornamented Lincoln's Inn Fields with walks and groves, and gave the first example of an umbrageous square in a great metropolis.†.

Little remains except to give some account of his person. He was of a middling stature, — his limbs well formed, though not robust, — his forehead high, spacious, and open, — his eye lively and penetrating ; there were deep lines of thinking in his face ; — his smile was both intellectual and benevolent ; — the marks of age were prematurely impressed upon him ; — in advanced life, his whole appearance was

\* Adv. of Learning. See the Essay “Of Atheism.” which was added in the later editions

† Letter to Buckingham, Nov. 12, 1618.

venerably pleasing, so that a stranger was insensibly drawn to love before knowing how much reason there was to admire him.

It is with great pain that I have found myself obliged to take an impartial view of his character and conduct;—but to suppress or pervert facts,—to confound, for the purpose of holding him up as a perfect being, moral distinctions which should be kept well defined and far apart,—would be a vain attempt to do honour to his genius,—would not be creditable to the biographer who sees his faults,—and would tend to demoralise as far as it might be effectual. Others who really believe Bacon to be immaculate, are fully justified in proclaiming him to the world to be so. This was by no means the opinion he entertained of himself. He acknowledges to Sir Thomas Bodley his many errors, and among the rest, says he, “this great one which led the rest, that knowing myself by inward calling to be fitter to hold a book than play a part, I have led my life in civil causes, for which I was not very fit by nature, and more unfit by pre-occupation of mind.”

When young, he had “vast contemplative ends and moderate civil ends.” If he had inherited the patrimony intended for him by his father, if he had obtained the provision which he solicited from the minister on his father’s death, it is possible that he might have sunk into indolence and obscurity; but from his native energy, and from the consciousness with which he seems to have been very early inspired of his high calling to be “the great reformer of philosophy,” the probability is, that he would have left the *Instauratio Magna complete*—preserving a spotless reputation. Then, indeed, we should have justly honoured him beyond any of his species, to whom miraculous gifts have not been directly imparted by Heaven. But without incurring any blame in the first instance, he was driven to betake himself to the profession of the law for a subsistence; hence, he was involved in the vortex of politics; intellectual glory became his secondary object; and his nature being changed and debased,—to gain professional advancement, official station, and political power, there was no baseness to which he was not ready to submit, and hardly any crime which he would not have been willing to perpetrate. I still readily acknowledge him to be a great man; but can only wish he had been a good man. Transposing the words applied by Tacitus to Agricola, I may truly say, “*Magnum virum facile crederes, boauum libenter.*”

According to the directions in his will, his remains were interred in St. Michael’s Church, near St. Alban’s. No account has reached us of his funeral, and there is reason to fear that, on this occasion, as his connection with the Court had entirely ceased, and a party squabble was engrossing the attention of the public, the great and the noble did not attend to do honour to his memory. But then and there, no doubt, appeared as a mourner, and wept, Sir Thomas Meautys, his faithful secretary, who, at his own expense, erected to him, in the church where he lies buried, a handsome and characteristic monument,

representing him in a sitting posture with his hand supporting his head, and absorbed in contemplation—with this inscription:—

Franciscus Bacon Baro de Verula S<sup>e</sup> Alb<sup>z</sup> Vic<sup>m</sup>  
 Sive notioribus titulis  
 Scientiarum Lumen Facundis Lex  
 Sic sedebat.  
 Qui postquam omnia naturalis sapientia  
 Et civilis arcana evolvisset  
 Nature decretum expletivit  
 Composita solvantur  
 An<sup>r</sup> Dni MDCVI,  
 Aet. LXVI.  
 Tanti viri  
 Mem.  
 Thomas Meautys  
 Superstitis cultor  
 Defuncti admirator.  
 H. P.

Notwithstanding all the money he had received, duly and unduly,—such was his love of expense, and his neglect of his affairs, that upon his death his estate appears to have been found insolvent. All the six executors whom he named in his will refused to act, and on the 13th of July, 1627, administration with the will annexed was granted to Sir Thomas Meautys, and Sir Robert Rich, a Master in Chancery, as two of his creditors.—No funds were forthcoming for the foundation of his lectureships.\*

His wife survived him twenty years, but lived in retirement.

\* Since the publication of the first edition of this book, by the assistance of my friend Mr. C. Monro, I have ascertained beyond all question that Bacon died insolvent. It appears by the Registrar's Book that a creditors' suit was instituted for the administration of his estate. His servants were by consent to be paid their wages in full, and the fund arising from the sale of his property was to be divided ratably among the other creditors. A report to the Lord Chancellor, on the state of the debts and assets, contains these very curious passages:—"That concerning the several debts demanded by Sir Peter Van Lord, Mr. Peacock, and Phillip Holman, it is alleged that the testator was sentenced for them in parliament as bribes, and therefore not conceived reasonable that they should come in as creditors. Nevertheless, further time is given them to produce their proofs, and to hear what can be said on either side touching their said demands." Then with respect to a bond for 1000*l.* to secure that amount lent to him when he was Attorney General, the Report, after stating the objection by the creditors, says, "I have thought fit to set down the testator's own words touching the said debt, and so leave the same to your Lordship's consideration: 'A note of such debts as either in respect of length of tyme or the nature of the first borrowing or agreement since, need not be thought upon for repayment; viz. The farmers of the Customs 1000*l.*, lent long since, when I was Attorney, and without interest, upon great and many pleasures don to the said farmers, and whereas I was wont to have of them yearly a new yeare's guift of 100*l.* at least—upon this money lent it was discontinued, and soe the principall worne out, for interest was never intended.'"—Reg. Lib. 19 Feb. 1626.

Bacon perhaps comforted himself for his want of offspring, by recollecting the instances from which he drew his saying, that "Great men have no continuance;" but he seems at times to have felt a pang at the thought that he was to leave no children to close his eyes, or to weep over his grave: "They increase the cares of life, *but they mitigate the remembrance of death.*"\*

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## CHAPTER LVII.

### LIFE OF LORD KEEPER WILLIAMS FROM HIS BIRTH TILL HIS INSTALLATION AS LORD KEEPER.

THE Great Seal, having been delivered up by Lord Bacon at York House previous to sentence being pronounced upon him, was brought to the King at Whitehall,—and there he immediately ordered three commissions to be sealed with it in his presence,—one addressed to Sir Julius Cæsar, Master of the Rolls, and certain common-law Judges, to hear causes in the Court of Chancery,—another to Sir James Ley, Chief Justice of the King's Bench, to preside as Speaker in the House of Lords,—and the third to Viscount Mandeville, the Lord Treasurer, the Duke of Lennox, the Earl of Pembroke, and the Earl of Arundel, to keep the Great Seal, and to affix it to all writs and letters patent requiring to be sealed.†

This arrangement continued above two months following,—when, for reasons which we shall hereafter explain, the Great Seal, after having been held during a period of sixty-three years by six successive laymen bred to the law, was, to the dismay of Westminster Hall and the astonishment of the public, delivered to an ecclesiastical Lord Keeper, JOHN WILLIAMS, Dean of Westminster and Bishop of Lincoln elect,—a man of sharp natural intellect, of unwearyed industry, of great scholastic acquirements, free from considerable vices, but not distinguished for any very high qualities of head or heart,—who, by a sort of frolic of fortune, was suddenly placed in the very situation for which Bacon, singularly well able to perform all its duties, and with many advantages from birth and connection, had so long plotted, before he could reach its slippery eminence.

The principality of Wales boasts of Williams as one of the most illustrious of her children. He was of the true Cambrian race, being the son of Edmund Williams and Anne Wynne, daughter of Owen Wynne, Esquire, with genealogies reaching, through Llewellyn, King

\* *Essay, "Of Parents and Children."* See *Life of Bacon by Montagu*, and the admirable article upon him by *Macaulay, Essays*, vol. ii. 280.

† *Rot. Cl. 19 Jac. 1. p. 13.*

Arthur, and Caractacus, to Adam. He was really of a respectable gentleman's family, who bore upon their shield three Saxons' heads, which, when he was made chief of the law, gave rise to the following distich:—

“ *Qui sublime fori potuit concendere tignum,  
Par fuit hunc capitum robur habere trium.* ”

He was born at Aberconway, in the county of Carnarvon, on the 25th day of March, 1582. He was educated at a Grammar-school lately established in the town of Ruthin, and is said to have there made great proficiency in Greek and Latin, although as yet he had very little acquaintance with *Sassenach*.

In his sixteenth year he was sent to St. John's College, Cambridge, and put under the care of a countryman, Owen Gwynne, one of the College tutors; and all the Welshmen at the University are said to have been proud of his learning. “One thing put him to the blush and a little shame, that such as had giggling spleens would laugh at him for his Welsh tone. For those who knew him at his admission into St. John's society would often say, that he brought more Latin and Greek than good English with him. This also plucked advantage after it; for it made him a very retired student by shunning company and conference, as far as he could, till he had lost the rudeness of his native dialect.”\*

He studied four years before he took his Bachelor's degree, during which time, with intervals for attending chapel, hall, and lectures, he is said to have read daily from six o'clock in the morning till three the following morning; for “from his youth to his old age he asked but three hours' sleep in twenty four to keep him in good plight of health.”† He was very temperate in his diet, keeping, like all good Protestants, long after the Reformation, Lent and fish-days as rigorously as the Roman Catholics. Having taken his Bachelor's degree with great applause, he was soon after elected a fellow of St. John's, a royal dispensation of some statutes, which stood in his way, having been obtained at the request of the College.

His diligence continued unabated during the three years “while he was running his course to the degree of Master, a time of loitering with too many. He surrendered up his whole time to dive into the immense well of knowledge that hath no bottom. He read the best, he heard the best, he conferred with the best, exscribed, committed to memory, disputed; he had some work continually upon the loom. And though he never did so much in this unwearied industry as himself desired, he did far more than all who did highly value him could expect. All perceived that a fellowship was a garland too little for

\* Hacket, 7. “There are few of our Welsh youth but at their first coming abroad would move almost any man to laughter with the native tone of their voice, and by pronouncing all their English as if they spoke it in a passion; and thus it was with our youngster.” — *Philip.*

† *Ibid.*

his head, and that in that merit his pace would quickly go farther than St. John's Walks."\*

Having taken orders, he accepted a small living in Norfolk, which he exchanged for another in Northamptonshire; still residing at Cambridge, and being deputed to manage all the important affairs of his College. In prosecuting an application for a licence to hold lands in mortmain, he attracted the notice of Lord Chancellor Ellesmere; who, hearing of his University reputation, observing his shrewdness, and having heard him preach, took him into his service as one of his domestic chaplains.

There is a story of his having made his fortune by pleading a cause before the King, respecting the right of his parishioners in Northamptonshire to dance round a Maypole; when he is supposed to have pleased James so much by his learning and eloquence, that he was made a royal chaplain, and placed in the career of preferment which conducted him to the woolsack. But Hacket is silent respecting this introduction to greatness; and as it is even inconsistent with the authentic narrative of the friend and biographer of Williams, it can only be noticed to be rejected as spurious.

Before taking up his residence at York House, the Chancellor's chaplain was allowed to complete the year for which he was serving the office of Proctor in the University of Cambridge; and he added to his reputation by his energy in enforcing discipline, and his learning in conducting disputations. Being transferred to London, "he was now in a nest for an eagle."† He had an excellent opportunity to advance himself, and he made the most of it. Not only did he say prayers and preach before the worthy old Chancellor, but he constantly attended him wherever he went, and insinuated himself into his most intimate confidence. He even sat by him in the Court of Chancery, as well as in the Star Chamber; and "to climb *εἰς τὸν τύχην*, into the bosom of his master's soul, he picked up, in a short space, *some gleanings*, in his own modest words, in the knowledge of the common laws of the realm; but, indeed, *full sheaves*, if his acquaintance might be believed, having read, 'LITTLETON'S TENURES,' 'the Doctor and STUDENT,' and somewhat else like unto them, at hours of relaxation, he furnished himself with no little quantity of that learning, by discourse and conference, and inquiring after some cases how they sped in the Courts of Justice. When he was at a non-plus, he resorted that difficulty till he met with Sir John Walter (afterward Lord Chief Baron), whose judgment was most agreeable to his genius."‡

Hacket thus concludes a long vindication of his hero, illustrated by examples of ecclesiastics who had gained renown by their skill in the civil and canon law. "Why might not Mr. Williams examine the cases, reports, and maxims, of our municipal laws to be expert in them? Both being egged on to it by the happiness of his attendance in the Pretorian Court, where he might learn much and labour little for it,

\* Hacket, 8.

† Ibid. 8.

‡ Ibid. 20. 23. 27.

and making it the recreation, not the intermission, of his proper studies. The Lord Chancellor did highly countenance him in it; and was so taken with his pregnancy, that at his leisure times, both for his own solace and his chaplain's furtherance, he would impart to him the narrative of some famous causes that had been debated in Chancery or Star Chamber. What could not such a master teach? what could not such a scholar learn? Socrates says in Plato—of Alcibiades, that he gloried in nothing so much as that he was ward to Pericles, and brought up under him. Neither had this chaplain a more graceful ornament to show, in the eyes of the world, than that he was disciple to the Lord Egerton."\*

By degrees, he was employed by the Chancellor to read weighty petitions, and to assist him in extracting the material facts from voluminous depositions. At first, there was great jealousy of him among the secretaries; but in a little while they did their utmost to put him forward, and "none of his fellows had cause to repent that he rode upon the fore horse; for he was courteous and ready to mediate in any cause, and he left all fees and veils of profit to those to whom they did belong. The lookers-on did mark, that his Lord did not only use him in his most principal employments, but delighted to confer with him."†

The ecclesiastical patronage of the Lord Chancellor was placed very much at his disposal. "They were godly men whom he obliged, and such as had waited long in the Universities, and fit to be called forth to use their talents."‡ Meanwhile, he by no means neglected his own interest. He obtained the fine living of Waldegrave, in Northamptonshire, in addition to Grafton, with Stalls at Lincoln, Peterborough, Hereford, and St. David's. His panegyrist§ defends his pluralities by the quotation, *Quomodo liberalis esse potest, qui nihil plus acquireret, quam quod sibi ad victimum necessarium sufficere queat?*||

He likewise took his turn in preaching before the Court, pleasing James by his adhesion to the courtly doctrine now so much in vogue,—that subjects hold their liberties and their property at the will of the Sovereign, whom they are bound, in every extremity, passively to obey.

What is more to his credit than pleasing James,—he is said to have given high satisfaction to the admirer of Raleigh,—Prince Henry,—who, having heard him preach at Newmarket, "took great notice of him as an honour to Wales, and gave him his Princely word that he would reward him after the weight of his worth."|| This Prince

\* Hacket, 28.      † Ibid.      ‡ Ibid.      § Ibid.      || Ibid. 30.

¶ Hacket, 30. I have been favoured by a kinsman of Lord Keeper Williams with the following copy of a letter written by him from Cambridge a few days after, addressed to Sir John Wynn, to whose sons he had been tutor at St. John's College. "I have with my proctorship light upon a most loving and respectful lord,—my Lord Chancellor,—who hath a fatherly care of my estate, as I have by many immediate favors lately tasted. It was likewise my good fortune to give his Majesty and the Prince some extraordinary contentment at Newmarket upon Tuesday last, when by appointment I preached before them. I had a great deal of court holy water, if I can make myself any good thereby." — Cambridge, 22 Nov. 1611.

likely, if he had survived, to have advanced the glory rather than the happiness of his subjects, was soon after mysteriously cut off. Williams, however, reaped the reward of his pliancy and dexterity more rapidly than he himself, in his most sanguine moments, could have anticipated, although, from the growing infirmities of the Lord Chancellor, all hope of higher preferment seemed to be at an end. Ellesmere was made a Viscount; "but who did ever see that the sand in an hour-glass did run the slower because the case in which it was put was gilded? He delighted not in any talk unless his chaplain spoke to him. All his business with his great and royal master, the King, he sent by him to be delivered with trust and prudence. Upon which messages the King took great notice, that the chaplain was principled by his master to be a statesman and a pillar of the kingdom."\* The impression now made on James certainly had a most favourable influence, when, four years afterwards, it was proposed that the Chancellor's chaplain should himself be Lord Keeper of the Great Seal.

In the prospect of his patron's demise, Williams seemed destined to pass the remainder of his life as a parish priest, with an occasional "residence" in a Cathedral town. Yet, either from some hint thrown out to him by James, who always thought the prerogative would be strengthened by the promotion of churchmen, or from the suggestions of vanity, he looked to rise high in the state, and being offered by Egerton on his death-bed any pecuniary provision he should choose to ask in recompence of his faithful services, he said, "Sir, I kiss your hands; you have filled my cup full; I am far from want, unless it be of your Lordship's directions how to live in the world, if I survive you." "Well," said the Chancellor, "I know you are an expert workman, take these tools to work with; they are the best I have," and he gave him the four treatises written by himself as to the mode of conducting business in Parliament, in the Court of Chancery, in the Star Chamber, and at the Council Board. The originals of these Williams presented to the King; but he made copies of them, and he diligently studied them in the retirement to which he thought it for his advantage for some time to submit.

When Bacon had got possession of the Great Seal, he proposed to continue Williams in his present situation of Chancellor's chaplain; but the acceptance of this offer was inconsistent with the ambitious projects with were springing up in the mind of the young Welshman. He declined it with many professions of gratitude, and, being resolved to settle himself on his living of Waldegrave, he was contented for the present with being made a Justice of Peace for the county of Northampton, and being put into the list of King's chaplains, whereby he would once a year be brought to Court.

He was now stationed, as in a watch-tower, to mark passing events, and to meditate future projects. He saw that all favours passed through the hands of Buckingham; but he was shy of cultivating him; first,

because he apprehended that he would probably soon be supplanted in the King's affections by some other minion; and, secondly, because Buckingham himself was notorious for casting off his subordinate agents as soon as they had served his turn.\* Meanwhile he addicted himself to study, and to the exemplary discharge of his parochial and magisterial duties. He kept up a most splendid hospitality, and though he distinguished himself at his table by carving and conversation, he contrived to retain his own abstemious habits. He still occasionally visited Whitehall, when he was called upon to officiate as one of the royal chaplains, and he was surprised to find Buckingham's ascendancy over the King more completely established than ever, and Lord Chancellor Bacon submissively obeying his orders.

No longer hesitating about the right channel of preferment, he was much at a loss to contrive a favourable introduction to the dispenser [A. D. 1620.] of the patronage of the Crown, who cared little about sermons, however eloquently the divine right of Kings might be expounded in them, and who was better pleased with active, useful service, than gross personal flattery. While in a desponding mood, pure good luck offered him such an opening as no wisdom could have planned, and no soothsayer could have foretold. Buckingham, the handsomest man of his time, was still a bachelor, after having been engaged in many amours. He at last wished to marry the Lady Catherine Manners, the only child of the Earl of Rutland, — high born, beautiful, and the heiress of immense possessions. But he was much disliked by her family as an upstart, and she herself, having been educated as a Roman Catholic, had great scruples about being united to a Protestant. Williams, having a living in the neighbourhood, had frequently visited at Belvoir, and, enjoying a great reputation for sanctity, he stood high in the good graces both of the father and daughter.

Buckingham applied to the Rector of Waldegrave to become a mediator for him in this affair. He readily undertook the mission, and sped so well that the old Earl consented to take Buckingham for his son-in-law, and the young lady swayed by the cogent theological arguments submitted to her, and the softened accounts of the gallantries of her lover now hinted to her, renounced the errors of Popery, and agreed to be married to him according to the rites of the Church of England. So complete was the negotiator's success, that he was allowed himself to draw the marriage-settlement, and to perform the marriage ceremony. He used to say "that this negotiation was the key-stone in the arch of his preferment."†

He now considered himself regularly enlisted among Buckingham's retainers; and, that he might be constantly near the spot where intrigues were to be successfully carried on, he immediately applied to his patron to be made Dean of Westminster, saying, "I am an humble suitor, first, to be acknowledged your servant, and, that I may be

\* Hacket, 34, 35, 36.

† Ibid. 42.

**nearer, and better able to perform my desires, to be by your happy hand transplanted to Westminster. If your honour be not bent upon an ancient servant, I beseech you think upon me. I am true, and so reputed by my former, and, by the grace of God, will prove no otherwise to my second, master.”\***

The application succeeded, and Williams, taking up his abode at the Deanery,—while he bestowed great labour upon the financial concerns of the Chapter, which he found in [A. D. 1621.] great disorder, frequently attended the Court at Whitehall, and was ready to avail himself of any chance which might happen for his further advancement.

On the 30th of January, 1621, the parliament met, from which James and his ministers expected nothing but supplies and submission, but which Williams, from having mixed with the lower and middling ranks, and being aware of the discontents which had been long accumulating, early perceived would make an irresistible attack on certain political abuses which even Court preachers could not defend. He saw the Commons begin with Sir Giles Mompesson and Monopolies, but knew they would not stop there, and, well pleased—not surprised,—he heard of the committee appointed to inquire into the corrupt practices prevailing in the Court of Chancery, and of the charges of bribery against Lord Chancellor Bacon.

But he was surprised as well as pleased when, the day after Sir R. Philips, chairman of the committee, had presented a report which declared these charges to be true and the fit subject of impeachment, he was sent for by Buckingham, and confidentially consulted as to the measures to be adopted by the Court for quelling the storm. Whether Williams at this moment dimly discovered any shadow of his coming greatness it is impossible to say. Though the advice he gave coincided with his own interest, it must be allowed to have been sound. The vote of the House of Commons against the Lord Chancellor having been nearly unanimous, and the evidence against him being convincing, he was already condemned by the public voice, and he must have been found guilty by the Lords.

To stifle the prosecution, while parliament was allowed to continue sitting, was impossible. An abrupt dissolution might have been resorted to. This was the favourite expedient of the [A. D. 1621.] Stuarts; but producing a temporary respite, it fatally increased their difficulties. On the present occasion Williams truly urged “that the House of Commons as yet had given no just cause of complaint; that if the abuses complained of existed, the whole nation would say they ought to be removed; that the government would not long be carried on without parliamentary aids, and that another parliament would only be more formidable to the prerogatives and to the ministers of the Crown.” We have already related how Buckingham and the King, convinced that this was the safest course,

\* Hacket, 44.

put themselves under the guidance of the Dean of Westminster, who was supposed by the public, and even by Bacon, to be only occupied with saying prayers in the Abbey ; how Sir Edward Villiers was sent on his embassy, — how Mompesson and Michell were surrendered up as victims to the public indignation, — and how the impeachment of the Chancellor was allowed to proceed, with every disposition to save him or to soften his fall.\*

A long adjournment at Easter having been found ineffectual to divert the Commons from their purpose, Bacon, as the most expedient step for himself and the government, confessed the truth of all the charges brought against him. — Sentence being pronounced upon him, the difficult question arose, who was to be his successor ?

The bold and wise step would have been to have at once offered the Great Seal to Sir Edward Coke, who would have eagerly accepted it, and whose formidable patriotism would thus have been for ever extinguished, instead of blazing through the remainder of this reign, and causing a conflagration in the beginning of the next ; but he had rendered himself personally so obnoxious to the King, that this promotion could not be proposed without making James threaten to abdicate the English throne and to return to his own country. Buckingham, likewise, though now connected with him by marriage, was afraid of his occasional fits of independence and his ungovernable temper.

There was more deliberation about Ley, the Chief Justice, who had very creditably performed the duties of Speaker of the house of Lords since Bacon's retirement ; but it was thought that his subserviency might prove more valuable by retaining him to preside in the Court of King's Bench. Hobart, Chief Justice of the Common Pleas, had great hopes from the favour of the Prince, to whom he was Chancellor ; but Buckingham had a particular antipathy to him, from his resistance to some patents when he was Attorney General. The competitor who had the best chance was Sir Lionel Cranfield, Master of the Court of Wards, who, though slenderly educated, having been a merchant's clerk, had great natural abilities, was related to Buckingham, and was his slave. The other aspirant was Williams. Having insinuated himself into the confidence of the King and his minister, — “out of this bud the Dean's advancement very shortly spread out into a blown flower.”† For some reasons, he would have been greatly preferred to all the rest, but there were obvious objections to the appointment, which kept it for some time a measuring cast between him and Sir Lionel Cranfield.

Under these circumstances he was desired to draw up a statement of the profits of the office, from the information he had derived in the situation he had held under Ellesmere. His panegyrist says, with great simplicity, that “ he returned an answer on the 10th of May, with the best advantage he could foresee to the promotion of the Master of the Wards ; ” but it seems quite clear to me, that his object

\* Ante, p. 320, *et seq.*

† Hacket, 51.

‡ Ibid. 52.

was to undervalue and disparage the office that it might come to himself :

“ My most noble Lord,

“ Although the more I examine myself the more unable I am made to my judgment to wade through any part of that great employment which your Honour vouchsafed to confer with me about, yet because I was bred under the place, and that I am credibly informed my true and noble friend, the Master of the Wards, is willing to accept it (and if it be so, I hope your Lordship will incline that way), I do crave leave to inform your Honour, by way of prevention, with secret underminings, which will utterly overthrow all that office, and make it beggarly and contemptible. The lawful revenue of the office stands thus, or not much above at any time. In fines certain, 1300*l.* per annum, or thereabout. In fines casual, 1250*l.*, or thereabout. In greater writs, 140*l.* For impost of wine, 100*l.* — in all 2790*l.*, — and these are all the true means of that great office.”\* He then proceeds to state how it was likely to become still poorer by the Lord Treasurer claiming a certain part of the fines, and the under officers petitioning “ to have some collops out of the Lord Chancellor’s feest,” thus concluding, “ Now, I hope when your Lordship shall use this information to let the King see it, that you will excuse me for the boldness that I am put upon by your commands.”†

According to Hacket, Buckingham carried this letter, “ the ink scarce dry,” to the King, — when the following dialogue took place between them. — *King.* “ You name divers to me to be my Chancellor. Queen Elizabeth, after the death of Sir Christopher Hatton, was inclined, in her own judgment, that the good man, Archbishop Whitgift, should take the place, who modestly refused it because of his great age, and the whole multitude of ecclesiastical affairs lying upon his shoulders. Yet Whitgift knew not the half that this man doth in reference to this office.” — *Buckingham.* “ Sir, I am a suitor for none but for him that is so capable of the place in your great judgment.” — *King.* “ Be you satisfied then, I think I shall look no further.” — Buckingham instantly sent a message to Williams, that the King had a preferment in store for him; he, not thinking of the Great Seal, conjectured it must be the Bishoprick of London, then vacant, for which he had been a suitor; so it happened to him as is related

\* This must be a most extravagant understatement of the profits of the office. I say nothing of bribes and presents, said in Lord Bacon’s four years to have amounted to 100,000*l.*; but the regular legitimate fees and perquisites enabled the Lord Chancellor to maintain a princely establishment, and with common prudence to amass a great fortune. In a MS. treatise on the Court of Chancery by Sir Robert Cotton, which I have seen, it is said, “ the Lord Chancellor hath for his allowance, and of the Masters of the Chancery, 542*l.* 15*s.*, — and 300*l.* for his attendance in the Star Chamber, — 200*l.* for wine, — 64*l.* for wax, and 6*s.* yearly for the casual fines, — *communibus annis*, 300*l.* — Item 2*l.* of every patent, and the fines of all extents.” But this beggarly account cannot be at all relied upon.

† Hacket, 51.

† Ibid.

of Scipio *Æmilianus*: “*Ædilitatem petens Consul creatus est.*”\* The friendly biographer admits that when the appointment was announced to the public, it caused great astonishment. “It was much and decidedly spoken of as a paradox of honour. Some could not believe it. Some said it was no new way, but an old one renewed; and God give him joy of it. The best professors of our laws took it sadly, without doubt, that one did never run in their race had got their garland.”†

This appointment has not been sufficiently censured by historians. It affords a striking proof of the arbitrary principles on which the government was conducted, and the total disregard of the public interest and of public opinion which was manifested in furtherance of any scheme or whim of the King or the minister. Equity had become a branch of jurisprudence applicable to a great portion of the property of the kingdom, and (as Lord Bacon’s Orders demonstrate) the practice and doctrines of the Court of Chancery had assumed a systematic form. No one was fit to preside there till after legal lucubrations of twenty years—and a Cambridge scholastic divine, although when chaplain to a Lord Chancellor he had affected to read and talk a little law, must have been as ignorant of the questions coming before him as the door-keepers of his Court. He was to superintend the general administration of justice throughout the realm, who had never acted as a Judge, except at the Waldegrave Petty Sessions, in making an order of bastardy, or allowing a rate for the relief of the parish poor. The case bore no resemblance to the elevation of such men as Warham, Morton, or Wolsey, who had regularly studied the civil and canon law, and who lived in times when the Chancellor was expected to act

\* Hacket, 59.

† Hacket, though he vouches his credit for the truth of this story, admits that a different report was spread abroad as to the manner in which the appointment was finally settled, and I must confess my belief that Sir Lionel Cranfield was induced by the letter to prefer the snug place he then held to one attended with so much envy and danger, and seemingly so little profit,—whereupon Buckingham resolved that Williams should have it, on a promise to dispose of its patronage as directed,—and that his Dad immediately acquiesced in the proposal made to him. Williams himself, I doubt not, gave his biographer the narrative in the text; but Clarendon has shown that where his personal honour was concerned, his testimony is of no value. — *Hist. Reb.*, vol. i. 345. See Hacket, 52.

A piece of legal preferment is said to have been still more unexpectedly conferred in the time of Lord Thurlow. A briefless barrister, the height of whose ambition was to be a commissioner of bankrupt,—an office then worth not more than 100*l.* a year,—asked the Duke of Gloucester to apply for it to the Chancellor, and the following dialogue took place between them: — *D. of G.* “I am very desirous to obtain for a friend of mine at the bar an office in your Lordship’s Court, but unfortunately I have forgot the name of it.—*Thurlow.* “There is a Mastership in Chancery now vacant<sup>1</sup>; perhaps that is what your Royal Highness means.” — *D. of G.* “I think, my Lord, that must be the very thing.” — *Thurlow.* “Sir, I cannot refuse any application from your Royal Highness which it is in my power to comply with, and your friend shall be appointed.” Appointed he was, and held the office very creditably many years.

1 Worth 3000*l.* or 4000*l.* a year.

according to his own notions of justice, without regard to rule or precedent.

A story was afterwards circulated, that when the Great Seal was brought from Lord Bacon to King James, he exclaimed:—"Now, by my soul, I am pained at the heart where to bestow this; for as to my lawyers, I think they be all knaves."\* But this saying is quite apocryphal, and, if genuine, would equally have justified the appointment of the Dean of Westminster to be Chief Justice of the King's Bench or Common Pleas. We may rest assured that James was very little consulted upon the occasion, and that Buckingham, in this outrageous act, considered only what would best suit his own arbitrary schemes for governing the country.

A great difficulty immediately arose about the installation of the New Lord Keeper. It was now Easter Term, and he ought forthwith to have taken his place in the Court of Chancery; but an apprehension was entertained that, from his gross ignorance of all that was to be done there, he might make some ludicrous blunder, so as to stir the indignation not only of the suitors and the lawyers, but of the House of Commons,—a body now regarded with considerable awe. After much deliberation it was resolved, on Williams's own suggestion, that the Great Seal should remain in commission till the commencement of the long vacation. "Thus popular discourse, inclining much to descent upon this matter, would spend itself away in two or three months, and, as it were, boil from a pint to a spoonful. It was further looked into that he might have respite to study the weight and trust of the office, whereby to supply it with that skill as might in candour be expected from a beginner."<sup>†</sup>

The Lord Keeper-elect actually began with great vigour the study of the law. He had for preceptor Sir Harry Finch, whom [JUNE 25.] he kept in his lodgings for six months following, working with him night and day. In the meanwhile, to add to his dignity, he was made a Privy Councillor, and appointed to the see of Lincoln.

Parliament being prorogued,—Trinity term being over,—and all the causes which stood for hearing being disposed of by the Commissioners,—on the 10th of July the King ordered the Great Seal to be brought to him at Whitehall, and a document being sealed with it merely by his own order, to assert a right to use it without the intervention of any responsible officer,<sup>‡</sup> he seated himself on his throne. The Prince of Wales, and the great officers of state being present, his Majesty then called the Dean of Westminster, who knelt down, and he delivered the Great Seal to him as Lord Keeper,—with an eloquent oration on the integrity, industry, and zeal requisite for duly discharging the duties of the office.<sup>§</sup>

\* Parkes on Court of Ch., p. 93.

† Hacket. 59, 60.

‡ The Cl. R. says, "Mos enim iste venit in consuetudinem."

§ "Et postquam elegantissimam, gravissimam, prudentissimam, et plene Nes-

When Williams had received the Great Seal into his hands, still remaining on his bended knees, he delivered this address, ascribing his promotion to the miraculous interposition of Heaven.

"Most dread and mighty Sovereign, if I should think myself any way worthy or sufficient for this great place wherein your Majesty is pleased to make probation of me, I were the most unworthy and insufficient wretch in all the world. But, in good faith, I do not: But as conscious of mine own weakness, as I am quite astonished at your favour and goodness, I do not therefore trouble my head to find out the reason of this advancement; because I take it for no ordinary effect, but an extraordinary miracle. *Deus et qui Deo proximus, tacito munera dispersit arbitrario, et beneficiorum suorum indignatus per homines stare judicium, mavult de subditis dedisse Miraculum.* I must only lift up mine eyes unto Heaven, and beseech that God, who, some ten years since, brought me, like Elisha, to be servant only unto that Elias, who under God and your Majesty was the chariot and horsemen of our Israel, that now he would be pleased to double the spirit of Elias upon his servant Elisha, whom your Majesty hath thus invested with his robe and mantle." After twaddling at considerable length about his being "only a probationer"—"not a keeper, but a suitor only for the Great Seal"—he proceeds, "Non ut me consulem, sed ut consulatus candidatum putem. And if I feel the burden too heavy (which I mighty fear and suspect), I will choose rather *desinere quam deficere*, to slip it off willingly to some stronger shoulder than to be crushed in pieces with the poise. I will say unto your Majesty as Jacob said unto Pharaoh, *Pastor ovium est servus tuus.* I am but a keeper of sheep; in that calling your Majesty found me, and to that calling I shall ever be ready to appropriate myself again. In the mean time, I beseech your Majesty to protect this Court of Justice wherein you have placed me, that the strength and power of the body be nothing impaired through the weakness of the head. *Nemo adolescentiam meam contemnat.* And so I end with my prayer unto God that your Majesty may live long, and myself no longer than I may be serviceable to your Majesty."\*

His Majesty graciously replied that he was as well satisfied with this appointment as any he had ever made, and he was persuaded that his judgment would not be deceived.†

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Succeeding in keeping all his preferments, a jest was circulated against him, "that he was a perfect diocese in his own person, being at once Bishop, Dean, Prebendary, and Parson."

To soften envy, he gave out that he was *bond fide* likely to resign the Great Seal very soon, and that, at all events, he could not possibly hold it more than three years, as, upon his suggestion the King had laid down an inflexible rule that, in all time coming, no one should ever be permitted to be Lord Keeper or Lord Chancellor for a more extended period.

The long vacation being spent in severe study, the first day of Michaelmas term arrived, and he was to take his seat in [Oct. 9.] the Court of Chancery. According to ancient custom, he ought to have rode to Westminster Hall in grand procession. Out of affected humility he declined this pomp, perhaps having a certain misgiving that the lawyers from the Inns of Court would not very eagerly join it, and that the nobility might not very willingly follow in the train of a *parvenu* as yet so little distinguished. Some supposed that, from being so severe a student, he was not an expert horseman, and that he had apprehensions of being spilt by the way. He summoned the Judges, who were under his control, to meet him at an early hour in the morning at the deanery,—saying that he declined all other attendance. With them he passed through the cloisters into the Abbey, and so on to Henry VII.'s chapel.\* There he fell down on his knees, and remained in secret devotion for a quarter of

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an hour, praying for enlightenment to perform the duties of his new office. Then rising up cheerfully, as if he had received a favourable answer to his petition, he walked at the head of the twelve Judges, and with no other train, across Palace Yard, and entered at the North Gate of Westminster Hall, where curiosity had collected a great multitude of all degrees.

After the oaths had been administered to him he delivered a very long oration, of which I can only afford to give some of the more remarkable passages: "My Lords and Gentlemen all, I would to God my former course of life had so qualified me for this great place, (wherein, by the will of God and the special favour of the King, I am for a time to bestow myself,) that I might have fallen to my business without any farther preface or salutation. For my own part, I am as far from effecting this speech as I was from the ambition of this place. But having found by private experience that sudden and unexpected eruptions put all the world into a gaze and wonderment, I thought it most convenient to break the ice with this short deliberation which I will limit to these two heads, my calling and my carriage in this place of judicature." He goes on to explain how he came to be appointed, in a manner not very flattering to his legal auditors:—"A resolution was formed to change or reduce the Governor of this Court from a professor of our municipal laws to some one of the nobility, gentry, or clergy of this kingdom. Of such a conclusion of state (*quæ aliquando incognita semper justa*) as I dare not take upon me to discover the cause, so I hope I shall not endure the envy."\* He suggests that "the just management of a Court of Equity might be impeded equally by too much as too little law, and that the most distinguished of his predecessors, excepting always the mirror of the age and glory of the profession, his reverend Master (Egerton), had the commendation of the completest men, but not of the deepest lawyers." He becomes bolder as he advances;†—"Again, it may be—the continual practice of the strict law, without a special mixture of other knowledge, makes a man unapt and indisposed for a Court of Equity. *Jurisconsultus ipse per se nihil nisi leguleius quidam, cautus et acutus*,—as much used to defend the wrong as to protect and maintain the most upright cause. And if any of them should prove corrupt, he carries about him *armatam negotiationem*,—that skill and cunning to palliate the same, so that the mis-sen-

audiend. simul et terminand. placide composuit." — Cl. R. 19 Jac. This is the last specimen of Close Roll Latinity in the history of the Great Seal,— all the subsequent entries being in English.

\* On this passage Coleridge in a note passes the following just censure:—"This perversion of words respecting the decrees of Providence to the caprices of James and his beslobbered minion the Duke of Buckingham, is somewhat nearer to blasphemy than even the euphuism of the age can excuse."

† If Sir E. Coke was present, his feelings must have been mixed—his hatred of Bacon being at last satisfied,— but his regard for the honour of the profession cruelly wounded.

tence which, pronounced by a plain and understanding man, would appear most gross and palpable, by their colours, quotations, and wrenches of the law, would be made to pass for current and specious." He points out the disadvantage of a Chancellor having to decide the causes of his former clients, "who to day have for their Judge him who yesterday was their hired advocate," and he plainly insinuates (though he professes to disclaim) the imputation, "that a proneness to take bribes may be generated from the habit of taking fees." He concludes this head with a clumsy attempt at palliation:—"These reasons, though they please some men, yet, God be praised, if we do but right to this noble profession, they are in our commonwealth no way concluding or demonstrative. For I make no question but there are many scores which profess our laws, who, beside their skill and practice in this kind, are so richly enabled in all moral and intellectual endowments, *ut omnia tanquam singula perficiant*, that there is no Court of Equity in the world but might be most safely committed unto them." With respect to himself he affects a mixture of humility and confidence:—"Surely if a sincere, upright, and well-meaning heart doth not cover thousands of other imperfections, I am the unfittest man in the kingdom to supply the place; and therefore must say of my creation as the Poet said of the creation of the world, — *Materiam noli querere, nulla fuit*. Trouble not your head to find out the cause. I confess there was none at all. It was without the least inclination or thought of mine own (?)—the immediate work of God and the King, and *their* actions are no ordinary *effects*, but extraordinary *miracles*."\* From this miraculous touch he becomes as courageous as a lion:—"What then? Should I beyond the limits and duty of obedience despond and refuse to make some few years' trial in this place? *Non habeo ingenium, Cæsar sed jussit, habebo*. *Cur me posse negem, posse quod ille putet?* I am no way fit for this great place, but because God and the King will have it so, I will endeavour as much as I can to make myself fit, and place my whole confidence in his grace and mercy,—*Qui neminem dignum eligit, sed eligendo dignum facit*." He then goes on with better taste to confess his disadvantage in coming after two such men as Egerton and Bacon,—"one of them excelling in most things,—the other in all things,—both of them so bred in this course of life, *ut illis plurimarum rerum agitatio frequens nihil esse ignotum patiebatur*;" adding rather felicitously, "My comfort is this, that arriving here as a stranger, I may say, as Archimedes did when he found geometrical lines and angles drawn every where in the sands of Egypt, *Video vestigia humana*, I see in this Court the footsteps of wise men, many excellent rules and orders which, though I might want learning and knowledge to invent, I hope I shall not want

\* There can be nothing more revolting than the language of English divines during the seventeenth century, who frequently put the King nearly, if not altogether, on a footing with Almighty God.

honesty to act upon." He next lay down certain principles by which he is to be governed, professing great respect for the common law, and laughing at the equitable doctrine, "that sureties are to be favoured;" for, says he, "When the money is to be borrowed, the surety is the first in the intention, and therefore if it be not paid, let him a God's name be the first in the execution." He thus not ungracefully concluded:—"I will propound my old master for my pattern and precedent in all things,—beseeching Almighty God so to direct me that while I hold this place I may follow him by a true and constant imitation; and if I prove unfit, that I may not play the mountebank so in this place as to abuse the King and the state, but follow the same most worthy Lord in his cheerful and voluntary resignation, *Sic mihi contingat vivere, sicque mori.*"\*

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## CHAPTER LVIII.

### CONTINUATION OF THE LIFE OF LORD KEEPER WILLIAMS TILL THE END OF THE REIGN OF JAMES I.

THE Lord Keeper now set to work with stupendous energy and with great discretion. By incessant reading and conversation with Finch and the officers of the Court, he had got some little insight into its rules and practice; he never sat in public without the assistance of the Master of the Rolls or some of the common-law Judges supposed to be most familiar with equity; and although he ostensibly delivered the judgment, he took care to be decorously prompted by those on whom he could rely.

In spite of his great caution he could not avoid sometimes misapplying technical terms, and causing a titter among the lawyers, who viewed him with no favour.† One morning, when his Honour the Master of the Rolls, who had been expected, was by sudden illness detained at home, a wag at the bar had the impudence to attempt a practical joke upon the Right Reverend the Lord Keeper. When called to, the wicked counsellor rose demurely, and pretending to look at his brief, made a sham motion,—which seems to have been somewhat like that mentioned in the Life of Lord Eldon, for a writ,—*Quare adhæsit pavimento.*" The exact terms of this motion are not mentioned by any Reporter, but we are told on undoubted authority that it was "crammed like a grenade with obsolete words, coins of far-fetched antiquity, which had been long disused, worse than Sir

\* Hacket, 71—74.

† Hacket explains their dislike of him into envy, comparing them to "Joseph's brethren, who hated the very dream of a sheaf, to which they must do obeysance." — p. 60.

Thomas More's '*An averia carucæ capta in withernam sint irreplegiabilia.*' With these misty and recondite phrases he thought to leave the new Judge groping about in the dark." Williams discovered the trick, and, notwithstanding his Welsh blood, he preserved his temper. "With a serious face the Lord Keeper answered him in a cluster of most crabbed notions picked out of metaphysics, and logic, as '*categorematical*' and '*syncategorematical*,' and a deal of such drumming stuff, that the motioner, being foiled at his own weapon, and well laughed at in the Court, went home with this new lesson—*that he that tempts a wise man in jest shall make himself a fool in earnest.*"\*

The account we have of his industry shames the most industrious men of this degenerate age. He took his seat in the Court of Chancery in the winter time by candle-light, between six and seven o'clock in the morning. Having sat there two hours, he went to the House of Lords between eight and nine, where the Prince and the Peers were assembled, expecting him to take his place on the woolsack. There he continued propounding and discussing the questions which arose till twelve at noon, every day, and when there was a late debate till past one in the afternoon. Going to the Deanery he took a short repast, and then returned to the Court of Chancery to hear petitions and causes that he had not been able to despatch in the morning. Coming home about eight in the evening he perused such letters and papers as his secretaries had prepared for him,—and after that, far in the night, he prepared himself for so much as concerned him to have in readiness for the Lords' House in the morning. His attendances in the Star Chamber and at the Council table did not interfere with the business of the Court of Chancery,—where he always attended two hours early in the morning before going elsewhere. He is said to have decided five or six causes in a morning, according to the quality and measure of the points that came to be debated in them, and that he might make others industrious and punctual like himself, two or three afternoons in every week he had a peremptory paper consisting of cases that had been long depending, and that he himself appointed to be heard at all events, and, if possible, finally disposed of. He is a striking instance of what may be accomplished without genius by industry. "Industry, I think," says his secretary, "was his re-creation,—for certain he had not a drop of lazy blood in his veins. He filled up every hour of the day, and a good part of the night, with the despatch of some public and necessary business."†

Thus energetic and thus assisted, notwithstanding his inexperience and ignorance as a Judge, he got on marvellously well, and the causes, petitions, and motions were disposed of without any public clamour. As yet, the proceedings in Chancery were not reported, precedent not being considered binding there, as in other Courts, and none of his decisions have been preserved to us. But as there were several ses-

\* Hacket, 75.

† Ibid. 76.

sions of parliament while he held the Great Seal, and there does not appear to have been any complaint against him except in one instance, which was without foundation,\* we are bound to believe that, in spite of all the objections reasonably made to his appointment, he gave satisfaction to the public.†

At all events, he satisfied himself. On the 10th of July, 1622, the anniversary of his receiving the Seal, he thus wrote to Buckingham. "In this place I have now served his Majesty one whole year diligently and honestly. But to my heart's grief, by reason of my rawness and inexperience, very unprofitably. Yet, if his Majesty will examine the registers, there will be found more causes finally ended this one year than in all the seven years preceding. How well ended, I ingenuously confess, I know not. His Majesty and your Lordship (who, no doubt, have received some complaints, though in your love you conceal them from me,) are in that the most competent judges."

He and his friends suggested that it was by some sort of miraculous influence that he performed so well; but the miracle is solved in his judiciously availing himself of the knowledge and skill of others. His assessors may truly be considered the Lords Commissioners of the Great Seal while he held it;—and his great merit was, that he steadily kept them to their work.

He seems from his own resources to have done his duty creditably [Nov. 1621.] in the House of Lords. Parliament met in November, 1621. He had then to address the two Houses, in the absence of the King, who was indisposed. This speech was well seasoned with divine right and passive obedience, and we have this account of it in a letter written to him next day by Buckingham. "I know not how the Upper House of Parliament approve your Lordship's speech. But I am sure he that called them together, and as I think can best judge of it, is so taken with it, that he saith it is the best that ever he heard in Parliament, and the nearest to his Majesty's meaning; which, beside the contentment it hath given to his Majesty, hath much comforted me in his choice of your Lordship, which in all things doth so well answer his expectation."‡

But the speech caused some disgust, extending to the whole order to which the Speaker belonged. A few days after, during a protracted debate respecting oaths, an aged Bishop, very infirm in health, begged permission to withdraw,—which then seems to have been necessary before a member could be absent from the division. Thereupon several Lords, who are said to have "borne a grudge to that apostolical order," cried out, that "they might all go home if they would;" and the Earl of Essex, the future leader of the parliamentary army,—then a hot-headed young man who had just taken his seat,—made a formal motion, which he required to be put from the woolsack and entered on the journals, "that their Lordships were content to open their

\* Sir John Bouchier's case, post.

† *Quod nemo noverit, pene non fit.*

‡ 1 Parl. Hist. 1295.

doors wide to let out all Bishops." The Lord Keeper, who perceived that this blow was aimed at himself, "replied with a *prudent animosity*, that he would not put the question even if commanded by the House, for their Lordships, as well spiritual as temporal, were called by the King's writ to sit and abide there till the same power dissolved them, and for my Lords temporal, they had no power to license themselves, much less to authorise others to depart from the Parliament." This spirited conduct quelled the disturbance, and the debate was allowed quietly to proceed; but Williams lived to see the day when he ineffectually opposed a bill for preventing the Bishops from sitting in the House of Lords, and he had the mortification to find that the bill, after passing both Houses, received the royal assent.

The only other proceeding in which he was personally concerned during this session, was upon a petition presented to the House of Lords by Sir John Bouchier, complaining that he had given judgment against the petitioner in the Court of Chancery without allowing his counsel to speak. The case was heard for several days at the bar,—when it turned out that the complaint was entirely unfounded, as, after ample discussion, the decree had been pronounced on the advice of the Master of the Rolls, Mr. Justice Hutton, and Mr. Justice Chamberlayne.

The Lords determined that, for this false charge against the Lord Keeper, Sir John Bouchier should be imprisoned, and that he should make an acknowledgment in their House, and in Chancery, of his faults. But the Lord Keeper saying that Sir John had behaved tempestuously in Chancery, besought a remission of the acknowledgment of his fault in that Court, and also of his imprisonment. The Lords highly commended the Lord Keeper's clemency, and remitted both. Then Sir John being brought to the bar, and his acknowledgment, ready drawn up, being delivered to him, he, kneeling, said, "My Lords, in obedience to the judgment of this House, I humbly submit myself. Whereas by the honourable sentence of the Lords spiritual and temporal, I stand convicted of a great misdemeanour, for taxing and laying an imputation on the Lord Keeper of the Great Seal of England, I do in all humbleness acknowledge the justice of their sentence, and also mine own fault and offence, and am heartily sorry therefore, and do crave pardon both of your Lordships in general, and of the Lord Keeper in particular."\* — On account of a [DEC. 1621.] quarrel with the House of Commons this parliament was soon after dissolved by proclamation, and by an order of Council, in which the Lord Keeper concurred, Sir Edward Coke, Sir Robert Phillips, Mr. Selden, Mr. Prynne, and several other leaders of the opposition party were committed to prison.

About this time he was instrumental in the promotion of a man who afterwards turned out to be his greatest enemy. Buckingham wished to appoint Laud one of the King's chaplains, whom he had found very

useful on several occasions, to the Bishopric of St. David's; but most unexpectedly James demurred, on account of some trouble caused to him from the ultra high church principles of this divine, in attempting to introduce episcopacy into Scotland. The Lord Keeper seeking to remove these scruples, the King said to him; "I perceive whose messenger you are; *Stenzy* hath set you on. The plain truth is, that I keep *Laud* back from all place of rule and authority, because I find he hath a restless spirit, and cannot see when matters are well, but loves to toss and change, and to bring things to a pitch of reformation floating in his own brain. I speak not at random; he hath made himself known to me to be such a one." The Lord Keeper allowed that this was a great fault, which might make *Laud* to be likened to *Caius Gracchus qui nihil immotum, nihil tranquillum, nihil quietum, nihil denique in eodem statu relinquebat*;— but undertook that it should be cured in time to come. "Then take him," said the King, "but on my *soul* you will repent it."

We now come to an affair in which Williams acted an exceedingly ungenerous part. Abbot, Archbishop of Canterbury, when shooting at a deer with a crossbow, and accidentally killed a keeper in Lord Zouch's park. Williams, on hearing of this calamity, instead of eagerly assisting in averting its consequences, and comforting the afflicted Metropolitan, thought it an opportunity of raising himself to the highest ecclesiastical as well as civil dignity, and wrote the following mean and cunning letter to be laid before the King:

"My Lord's Grace, upon this accident, is, by the common law of England, to forfeit all his estate to his Majesty, and by the canon law, which is in force with us '*irregular*' *ipso facto*, and so suspended from all ecclesiastical function, until he be again restored by his superior, which, I take it, is the King's Majesty in this rank and order of ecclesiastical jurisdiction. I wish, with all my heart, his Majesty would be as merciful as ever he was in all his life. But yet I hold it my duty to let his Majesty know, that his Majesty is fallen upon a matter of great advice and deliberation. To add affliction to the afflicted, as no doubt he is in mind, is against the King's nature. To leave a man of blood, Primate and Patriarch of all his churches, is a thing that sounds very harsh in the old councils and canons of the Church. The Papists will not spare to descant upon the one and the other. I leave the knot to his Majesty's deep wisdom to advise and resolve upon."

The Archbishop's friends quoted the maxims, "*Actus non facit reum, nisi mens sit rea*," and "*omne peccatum in tantum est peccatum in quantum est voluntarium*"; and it being argued against him, that if one acting in *indebita materia* kills a man involuntarily, it is to be gathered that God gave him up to that mischance, that he might be disciplined by the censure of the Church,— they replied, that hunting was no unpriestly sport by the laws of England,— for every Peer in the higher House of Parliament, as well Lords spiritual as temporal, hath permission by the *Charta de Foresta*, when, after

summons, he is on his journey to parliament, and travels through the King's forests, to cause a horn to be sounded; and to kill a brace of bucks for his sustentation.

To decide this knotty point, a commission was directed to ten Bishops, common-law Judges, and civilians,— the Lord Keeper being chief Commissioner. They were equally divided on the question, “whether the Archbishop was ‘*irregular*’ by the act of involuntary homicide ?” But a majority held that “the act might tend to a scandal in a churchman,” the Lord Keeper, on both questions, voting against the Archbishop.

This intrigue was counteracted by the general sympathy in favour of the Archbishop,— and the King, in due form, “assailed him from all *irregularity*, scandal, or infamony, pronouncing him to be capable to use all metropolitical authority as if that sinistrous contingency of spilling blood had never happened.”

The Lord Keeper's installation as Bishop of Lincoln had been delayed by these proceedings,— and now, from disappointment and spleen, under pretence that the efficacy of the Archbishop's consecration might still be questioned, he obtained a licence [Nov. 1622.] from the King that he might be consecrated by the Bishops of London, Worcester, Ely, Oxford, and Llandaff.\*

The following year was memorable by the romantic journey of the Prince and Buckingham to Spain. While at Madrid, [A. D. 1623.] Charles, to please his mistress and the Spanish Court, wrote a letter to the Lord Keeper, praying that he would do all in his power to mitigate the execution of the penal laws against Roman Catholics, to which the following courtly answer was returned:—

“ I would I had any abilities to serve your Highness in this place wherein you have set me, and your grace and favour have countenanced and encouraged me. To observe your Highness's commands, I am sure the Spanish ambassador resiant must testify, that since your Highness's departure he hath been denied no one request for expedition of justice or care of Catholics, although I usually hear from him twice or thrice a week ; which I observe the more superstitiously, that he might take knowledge how sensible we are of any honour done to your Highness. And yet, in the relaxation of the Roman Catholic penalties, I keep off the King from appearing in it as much as I can, and take all upon myself, as I believe every servant of his ought to do in such negotiations, the events whereof be hazardous and uncertain.”†

\* 2 St. Tr. 1160.

† The high church party afterwards invented a story that at this time the Lord Keeper wished to be reconciled to the Church of Rome, and through Buckingham's interest at the Court of Spain to be made a cardinal. In the autograph MS. of Robert Earl of Leicester, preserved in the British Museum, there is the following entry:— “ Att Yorke, 29th April, 1639. Being at dinner, at Sir John Melton's, where I lay, L<sup>d</sup> Chamberlain, the Earle of Holland present (but I thinke he heard it not), Mr. Endymion Porter, Groome of y<sup>e</sup> Bedchamber told me that he knewe the Bp. of Lincolne, Williams, since Archb<sup>p</sup> of Yorke (then in trouble), when he

The town was meanwhile amused by a call of Serjeants, a memorable event in those days. No fewer than thirteen jointly received the honour of the coif, and the Lord Keeper addressed them in a very long and tedious speech, which he thus sought to enliven: "Your great and sumptuous feast is like that of a King's coronation, at which you entertain the ambassadors of foreign Kings now resident about the city, and the prime officers and nobility of this realm. King Henry VII., in his own person, did grace the Serjeants' feast, held then at Ely place, in Holborn. I should be too long if I should speak of the ornament of your head, your pure linen coif, which evidences that you are candidates of higher honour. So likewise your *librata magna*, your abundance of cloth and liveries, your *purple habits*\* belonging anciently to great senators, yea, to emperors; all these and more are but as so many flags and ensigns to call up those young students that fight in the vallies, to those hills and mountains of honour which you by your merits have now achieved.

— “Neque enim virtutem amplectimur ipsam,  
Praemia si tollas.”

But more serious scenes were at hand. On Buckingham's return [DEC. 1623.] from Spain, he found that the Lord Keeper and Cranfield the Lord Treasurer, created Earl of Middlesex, had been intriguing against him in his absence, and had been trying to supplant him in the King's favour. Having re-established his ascendancy he vowed revenge, and trusting to the popularity he contrived to gather from breaking off the Spanish match, he resolved to call a parliament, and he managed to get a number of petitions ready to be presented to the two Houses, charging the Treasurer and Lord Keeper respectively with malversation in their offices. Williams, excessively alarmed, eagerly sought for a reconciliation with Buckingham, solicited the intercession of the Prince before parliament actually assembled, made his submission in person to the haughty chief, and received this cold yet consolatory answer, "I will not seek your ruin, though I shall cease to study your fortune."

was in favour, and L<sup>d</sup> Keeper, w<sup>d</sup> have bin a Cardinall, and made all the meanes he could to attaine unto it, by my Lorde of Buckingham's power, during the treaty of the match with Spaine; at which time Porter was the D. of Buckingham's servant, and in greate favour with him. 'This,' said Porter, 'is true upon my knowledge, or else God refuse me! and I wish this piece of bread may choke me, which I hope you believe I would not say if I did not know it!' One may see by this what an excellent conscience that Byshop hath, who w<sup>d</sup> have bin a Cardinall; while he was in favour nothing els would satisfie his ambition; and, being in disgrace, he betakes himself to the Puritan party." — Blencowe's *Sydney Papers*, p. 261.

\* On which Jekyll made the following epigram: —

“ The serjeants are a grateful race,  
Their dress and speeches show it,  
Their purple robes from Tyre we trace,  
Their argument go to it.”

The meeting of parliament was postponed for a week, by the sudden death of the Duke of Lennox, the Lord Steward. As the royal procession was about to move from Whitehall to the House of Peers, “The King looked round and missed him,” says Bishop Hacket: “he was absent indeed; absent from the body, and present with God.” The Lord Keeper preached his funeral sermon to the admiration of the Court, from the text, “Zabud, the son of Nathan, was principal officer, and the King’s friend.”\*

At last on the 19th of February, 1624, the King, seated on his throne, delivered a long speech to the two Houses, explaining [FEB. 1624.] to them what had happened during the two years when there had been no parliament,—particularly respecting the Palatinate and his son’s marriage,—desiring them, in the words of St. Paul, to “beware of genealogies and curious questions, and not to let any stir them up to law questions, debates, quirks, tricks, and jerks.”†

According to the usage of the age, the Lord Keeper ought to have followed in the same strain; but he thus excused himself, “A Lace-demonian being invited to hear a man that could counterfeit very well the notes of a nightingale, put him off with these words, *κατακλαυσα*, I have heard the nightingale herself. And why should you be troubled with the croaking of a Chancellor that have heard the loving expressions of a most eloquent King? And indeed, for me to gloss upon his Majesty’s speech were nothing else than it is in the Satyr, *Annulum aureum ferrcis stellis ferruminare*, to enamel a ring of pure gold with stars of iron. I know his Majesty’s grave and weighty sentences have left, as *Æschines*’s orations were wont to do, *το κερπον*, a kind of freck or sting in the hearts and minds of all the hearers. It is not fit that, with my rude fumbling, I should unsettle or discompose his elegancies. For, as Pliny, observes of Nerva, that when he had adopted the Emperor Trajan, he was taken away forthwith, and never did any public act after it, *ne post illud divinum et immortale factum aliquid mortale faceret*, lest after so transcendent and divine an act, he should commit any thing might relish of mortality: so it is fit that the judicious ears of these noble hearers be no further troubled this day, *nequid post illud divinum et immortale dictum mortale audirent.*” He therefore confined himself to desiring the Commons to retire and choose a speaker.†

Serjeant Crewe being presented as Speaker on a subsequent day, and having disqualified himself, the Lord Keeper said, “His Majesty doth observe that in you, which Gorgias the philosopher did

\* 1 Kings, iv. 5. This union of duties reminds me of a question put to Mr. Justice Buller, who used often to sit for Lord Chancellor Thurlow; “When do you preach for the Archbishop of Canterbury?” Thurlow used to say, “Buller knows no more of equity than a horse, but he gets through the causes, and I hear no more of them.”

† 1 Parl. Hist. 1373.

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"Most dread and mighty Sovereign, if I should think myself any way worthy or sufficient for this great place wherein your Majesty is pleased to make probation of me, I were the most unworthy and insufficient wretch in all the world. But, in good faith, I do not: But as conscious of mine own weakness, as I am quite astonished at your favour and goodness, I do not therefore trouble my head to find out the reason of this advancement; because I take it for no ordinary effect, but an extraordinary miracle. *Deus et qui Deo proximus, tacito munera dispergit arbitrario, et beneficiorum suorum indignatus per homines stare judicium, manu[m] de subditis dedisse Miraculum.* I must only lift up mine eyes unto Heaven, and beseech that God, who, some ten years since, brought me, like Elisha, to be servant only unto that Elias, who under God and your Majesty was the chariot and horsemen of our Israel, that now he would be pleased to double the spirit of Elias upon his servant Elisha, whom your Majesty hath thus invested with his robe and mantle." After twaddling at considerable length about his being "only a probationer"—"not a keeper, but a suitor only for the Great Seal"—he proceeds, "*Non ut me consulem, sed ut consulatus candidatum putem.* And if I feel the burden too heavy (which I mighty fear and suspect), I will choose rather *desinere quam deficere*, to slip it off willingly to some stronger shoulder than to be crushed in pieces with the poise. I will say unto your Majesty as Jacob said unto Pharaoh, *Pastor ovium est servus tuus.* I am but a keeper of sheep; in that calling your Majesty found me, and to that calling I shall ever be ready to appropriate myself again. In the mean time, I beseech your Majesty to protect this Court of Justice wherein you have placed me, that the strength and power of the body be nothing impaired through the weakness of the head. *Nemo adolescentiam meam contemnat.* And so I end with my prayer unto God that your Majesty may live long, and myself no longer than I may be serviceable to your Majesty."\*

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The long vacation being spent in severe study, the first day of Michaelmas term arrived, and he was to take his seat in [Oct. 9.] the Court of Chancery. According to ancient custom, he ought to have rode to Westminster Hall in grand procession. Out of affected humility he declined this pomp, perhaps having a certain misgiving that the lawyers from the Inns of Court would not very eagerly join it, and that the nobility might not very willingly follow in the train of a *parvenu* as yet so little distinguished. Some supposed that, from being so severe a student, he was not an expert horseman, and that he had apprehensions of being spilt by the way. He summoned the Judges, who were under his control, to meet him at an early hour in the morning at the deanery,—saying that he declined all other attendance. With them he passed through the cloisters into the Abbey, and so on to Henry VII.'s chapel.\* There he fell down on his knees, and remained in secret devotion for a quarter of

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Succeeding in keeping all his preferments, a jest was circulated against him, "that he was a perfect diocese in his own person, being at once Bishop, Dean, Prebendary, and Parson."

To soften envy, he gave out that he was *bona fide* likely to resign the Great Seal very soon, and that, at all events, he could not possibly hold it more than three years, as, upon his suggestion the King had laid down an inflexible rule that, in all time coming, no one should ever be permitted to be Lord Keeper or Lord Chancellor for a more extended period.

The long vacation being spent in severe study, the first day of Michaelmas term arrived, and he was to take his seat in [Oct. 9.] the Court of Chancery. According to ancient custom, he ought to have rode to Westminster Hall in grand procession. Out of affected humility he declined this pomp, perhaps having a certain misgiving that the lawyers from the Inns of Court would not very eagerly join it, and that the nobility might not very willingly follow in the train of a *parvenu* as yet so little distinguished. Some supposed that, from being so severe a student, he was not an expert horseman, and that he had apprehensions of being spilt by the way. He summoned the Judges, who were under his control, to meet him at an early hour in the morning at the deanery,—saying that he declined all other attendance. With them he passed through the cloisters into the Abbey, and so on to Henry VII.'s chapel.\* There he fell down on his knees, and remained in secret devotion for a quarter of

\* "Cumque ibi in celebrissimo Hen. sept. sacello preces et orationes publicas et privatas effudisset Aulam Westm. &c. propriis tantum familie stipatus ingressus est. Ibi autem Dno custode circa horam nonam ante meridianam in Cur. Canc. sellem et tribunal consenserat [he takes the oath]. Et cum pro consuetudine et more loci illustrissimum Dum Presidentem Mag. Rot. reliquosque prime forme clericos sive cancel. magros salutasset proprio loco consilit. Et cum de Curis istius scitis et plitis ad prescriptum Regni emendandis et corrigendis et aliis rebus haud dissimilibus oracu[m] bene longam huius Dno Presidenti humanissime valer- dixit officiariis ut sigillarent mandavit et se interim ad jurisconsultorum quesit.

extempore composition.\* But a laboured oration followed from the Lord Keeper, urging a supply from the state of affairs in the Palatinate, in the Low Countries, and in Ireland, and inculcating loyalty on the maxim "*amor civium regis munimentum.*"

There was a much greater inclination in the Commons to inquire into grievances than to grant liberal supplies ; and the plague breaking out in London, — at a council called to consider what ought to be done, a prorogation was proposed to Oxford, where it was thought the malcontents might be more manageable. This was strongly opposed by the Lord Keeper, who urged that when they came together there, they would vote out of discontent and displeasure, and that his Majesty was ill-counselled to give offence in the bud of his reign, — "*quæ nulli magis evitanda sunt quam juveni et principi, cuius gratia cumestate debet adolescere.*" Buckingham grinned at him while he spoke.

At Oxford the Commons were more refractory, and the attempt ended in an abrupt dissolution.† The Lord Keeper was now most unjustly accused by Buckingham of having intrigued with Sir Edward Coke and the popular leaders, and stirred them up to oppose the Court ; and, to justify himself, he drew up and privately put into the King's hand a paper entitled — "Reasons to satisfy your most excellent Majesty concerning my carriage all this last parliament." This made a favourable impression on the King, and the young Queen Henrietta was disposed to protect him, — pleased by his forbearance to the Roman Catholics, and by a speech he had addressed to her in French, when he presented the Bishops to her on her arrival in England.

But Buckingham was not to be diverted from his purpose. He revived the charge of intriguing with the discontented parliamentary leaders at Oxford, and he reminded the King that when Williams was first made Lord Keeper, he himself had proposed the rule that "the Great Seal ought never to be held by the same person more than three years."

Charles yielded ; and Lord Conway, deputed by him, came to the Lord Keeper's lodgings at Salisbury, and said — "that his Majesty understanding that his father, who is with God, had taken a resolution that the Keepers of the Great Seal of England should continue but from three years to three years, and approving very well thereof, and resolved to observe the order during his own reign, he expects that you should surrender up the Seal by All Hallowtide next, — alleging no other cause thereof, — and withal, that having so done, you should retire yourself to your bishopric of Lincoln." Williams respectfully professed his submission to the royal mandate, thanking God that the Seal was not demanded on any other ground. He said the late King

\* He begins by thanking God that the business to be treated required no eloquence to set it forth ; "for," says he, "I am neither able to do it, nor doth it stand with my nature to spend much time in words."

† 2 Parl. Hist. 36.

had continued it to him after the expiration of the three years, and the present King had restored it to him without condition or limitation of time,—“ yet it is his Majesty’s, and I will be ready to deliver it up to any man that his Majesty shall send with his warrant to require it.” He strongly remonstrated against the order that he should be restrained to his diocese, or any place else. Lord Conway tried to soothe him by saying, “ he understood this was merely meant, that he should not, after parting with the Seal, be obliged to attend the council table, but that he should be free to go to his bishopric.”

The Lord Keeper afterwards addressed a valedictory epistle to the King, and had an audience of leave preparatory to his formal surrender of the Seal. Charles, on this occasion, behaved to him with courtesy, and promised to comply with several requests which he made,—amongst others, that he might have leave to retire from Salisbury, where the Court then lay, to a little lodge lent to him by the Lord Sandys, and there my Lord Conway might receive the Seal, when his Majesty commanded it, in his journey towards Windsor. He immediately went to this retreat, finding “those suddenly strangers to him who were lately in his bosom, and that a cashiered courtier is an almanack of the last year, remembered by nothing but the great eclipse.”\*

At last, on the 25th of October, the following warrant was produced to him :

“CHARLES, R.

Trusty and well-beloved Councillor, we greet you well. You are to deliver, upon the receipt hereof, our Great Seal of England, whereof you are our Keeper, unto our trusty and well-beloved Councillor Sir John Suckling, Controuler of the Household, the bearer hereof; and this shall be a sufficient warrant unto you so to do. Given under our Signet, at our Court at Salisbury, &c.”

The Seal was immediately put into a costly cabinet in Sir John Suckling’s presence, and the key of the cabinet was inclosed in a letter to the King, sealed with the episcopal seal of Lincoln, and containing the last words of St. Ambrose and St. Chrysostom, thus translated, “*Non ita vixi ut me vivere pudeat : nec mori timeo, quia bonum habemus Dominum* ; that as I have not lived in my place so altogether unworthily as to be ashamed to continue in the same, so am I not now perturbed in the quitting of the same, because I know I have a good God and a gracious Sovereign. *Moriar ego, sed me mortuo, vigeat ecclesia.* Let me retire to my little Zoar, but let your gracious Majesty be pleased to recommend unto my most able and deserving successor an especial care of your church and churchmen. So may God make your Majesty more victorious than David, more wise than Solomon, and every way as great a King as your Majesty’s blessed father.”†

This is the last time that an ecclesiastic has held the Great Seal of

\* Hacket, part ii 26.

† Ibid. 27.

England, and notwithstanding the admiration in some quarters of mediæval usages, I presume the experiment is not likely to be soon repeated. No blame can be imputed to Williams while Keeper, for he seems to have been most anxious to perform the duties of the office to the best of his ability. Clarendon represents him as corrupt; but I think without any proof to support the charge.\* It is quite clear that he was not swayed in his decrees by the solicitations of Buckingham, which was probably one cause of his dismissal. James said that, in sometimes notwithstanding Buckingham, "he was a stout man that durst do more than himself."

He is blamed for having made a vast many orders privately on petitions, for the sake of the fees, amounting to 3000*l.* a year; but his friends asserted with much probability, that this complaint arose from the barristers who lost the glut of motions they were accustomed to have in Court.†

It is admitted that, at first, he showed his Cambrian origin by his irascibility; "yet when he had overgone three years in the Court of Chancery, he watched his passions so well that the heat of his old British complexion was much abated, and he carried all things with far more lenity than choler.‡ He would chide little and bear much. His anger on the bench, if sharp, was short-lived, and the sun never set before he was returned to patience and loving-kindness."§

Although he was very charitable and munificent, he did not, like some of his predecessors and successors, court popularity by dinner-giving. "He never feasted the King, and very rarely gave any lavish entertainments to others."||

If (as it was alleged) a good many of his decrees were reversed by his successor, he was little answerable for them, as he still continued to have the Master of the Rolls or common-law Judges for his asses-

\* Touching his bribery, the following pleasant anecdote is told. Having retired one summer to Nonsuch House, it chanced as he was taking the air in the Great Park, that seeing a new-built church at a distance, and learned the name of the chief benefactor, he said, "Has he not a suit depending in Chancery?" and the answer from George Minors who attended him being in the affirmative, he added, "and he shall not fare the worse for building of churches." The gentleman being told this saying of the Lord Keeper, sent next morning a taste of the fruit of his orchard and the poultry in his yard to Nonsuch House. "Nay, carry them back, George," said the Keeper, "and tell your friend he shall not fare the better for sending of presents." — *Philips.*

† One of these petitions, with the Lord Keeper's answer, is still extant in the Report Office: "Fitchell con. Hickman. The petition of two orphan children prayed that their uncle and brother might be appointed to put certain bonds in suit for their benefit. Answer. I must be certified from the two justices next adjoining of a sufficient man who I may trust for the use of the children, least they fall from the frieing pan to the fire." — *Jo. Linc. L. K.*"

‡ It is said that the great Welsh case of *Choleric v. Choleric*, which was pending so long in the Court of Chancery, began in his time, and caused some mirth when called on by the Registrar.

§ Hacket.

|| Hacket, 79.

sors,—and these reversals are said to have been chiefly on re-hearings, with new evidence.

I have now done with Williams in his judicial capacity, and in my strictures upon him I hope I have not forgotten the good-natured admonition of Bishop Hacket: “I do not blame lawyers if they would have us believe that none is fit for the office of Chancellor but one of their own profession. But let them plead their own learning and able parts, without traducing the gifts of them that are excellently seen in theological cases of conscience, and singularly rare in natural soleituousness.”

When Williams was deprived of the Great Seal, he was only in his forty-third year,—an age at which, if bred to the bar in our times, he might be aspiring to a silk gown. He lived twenty-five years afterwards, constantly involved in turmoil and trouble; but as he was no longer connected with the administration of justice, as he was only a second-rate statesman, as he had not a high name in oratory or literature, and as the events of his time which it is my duty to record will be illustrated in the lives of his successors, I shall be brief in my sketch of his subsequent career.

From Foxley, in Wiltshire, where he surrendered the Great Seal, he went at once to his episcopal palace at Buckden, which he found in a very dilapidated condition. He magnificently restored it, and there he lived with great splendour, having public days for entertaining all the surrounding clergy and gentry at his table.\* Forgetting how he himself employed spies, he talked very freely of the

\* The same kinsman to whom I before referred has favoured me with a copy of the following original letter, still extant, written by the ex-Lord Keeper soon after his return to Buckden:

“With the remembrance of my love and best affections unto you, being very sensible of that great goodwill you have ever borne me, I thought it not unnessearie to take this course with you, which I have done with noe one other freynde in the worlde, as to desire you to be noe more troubled with this late accident befallen unto me, than you shall understand I am my selfe.

“There is nothinge happened which I did not foresee, and (sithence the death of my deare master) assuredlye expect; nor laye it in my power to prevent, otherwise than by the sacrificinge of my poor estate, and that which I esteeme farre above the same — my reputation.

“I know you love me too well to wishe that I should be lavishe of either of these, to continue longer (yeat no longer than one man pleased) in this glorious miserye and splendid slaverye, wherein I have lived (if a man maye call such a toilinge a living) for these five years almost.

“By losinge the Seale, I have lost nothinge, nor my servants, by any faulfe of myne, there being nothinge either ladye, or soe much as whispered to my charge.

“If we have not the opportunitye we hadd before to serve the Kinge, we have much more conveniencye to serve God, which I doe embrace as the onlye end of God’s love and providence towards me in this sudden alteration.

“For your sonne Owen Wynn (who together with my debte is the object of my

government, not always sparing the failings of the King and the favourite. Some of his indiscreet expressions being reported at Court, Buckingham vowed, "that of all he had given him he would leave him nothing." In the hope of discovering something against him that might be made the subject of prosecution in the King's Bench, in the Star Chamber, or in Parliament, a commission of thirteen was appointed to inquire into all his proceedings while he had the Great Seal ; —but the attempt proved abortive.

At the approach of the coronation, for which he had been ordered [A. D. 1626.] to prepare a sermon, he came to London and dutifully tendered his service. As Dean of Westminster, according to the usage of centuries, he was entitled to a particular place at this solemnity. But he had orders to absent himself, and to depute one of the prebendaries in his stead. He sent in a list of all the prebendaries, —and to mortify him the more Laud, his special enemy, was selected.

Not receiving a writ of summons to Charles's second parliament, which met soon after, and feeling that this was an infringement of [JUNE, 1626.] the rights of the peerage, he wrote to him, remonstrating against the insult, and saying, "I beg, for God's sake, that your Majesty would be pleased to mitigate the causeless displeasure of my Lord Duke against me; and I beseech your Majesty, for Christ Jesus his sake, not to believe news or accusations against me while I stand thus enjoyned from your royal presence, before you shall have heard my answer to the particulars. The writ was sent to him, and he gave his proxy to Bishop Andrews, forbearing to sit in the House during this short parliament, in the hope of assuaging Buckingham's resentment, to whom he privately sent some wholesome advice for the management of public affairs.

On the summoning of the famous parliament which passed "the Petition of Right" he received his writ, with an injunction not to attend ; but he wrote back to Lord Keeper Coventry, "I must crave some time to resolve, by the best counsels

worldlye thoughts and cares), I will perform towards him all that he can have expected from me, if I live ; and if I die, I have performed it alreadye.

" You need not feare any misse of me, being for such a reserved in all your desires and requests; having alsoe your eldest son near the Kinge, and of good reputation in the Court, who can give you a good accompt of any things you shall recommende him unto you

" Hopinge therefore that I shall ever holde the same place I did in your love, which was fixed on my person, not my *late Glare*, and which I will deserve by all the freyndye and loving offices which shall lie in my power, I end with my prayer unto God for the continuance of your health, and doe rest your very assured loving freynd and cozen,

" *Jo. LINCOLN.*

" Bugden, 1 Decr. 1625.

" To my very much honoured  
" worthy Freynd and Cozen  
" *Sr John Wynn, K<sup>st</sup> and Baronet.*"

God shall give me, whether I shall obey your Lordship's letter (though mentioning his Majesty's pleasure) before my own right, which, by the law of God and man, I may, in all humility, maintain." When parliament met, he took his seat in person, and was constant in his attendance during the session.

The Lords entering into an inquiry respecting illegal commitments for refusal to pay the forced loan, he very actively assisted, and, as ex-Lord Keeper, spoke with the authority of a law Lord. The Judges of the King's Bench, who had refused to liberate these prisoners on a *habeas corpus*, were ordered to attend, but scrupled to answer the questions put to them, and "desired to be advised whether they being sworn, upon penalty of forfeiting body, lands, and goods into the King's hands, to give an account to him, may do this without warrant from his Majesty." The Bishop of Lincoln said, "this motion proceeded from him; and he took it for clear that there is an appeal even from the Chancery, which is a higher Court than the King's Bench; and that Court hath ever given an account of their doings."<sup>\*</sup>

He was one of the managers for the Lords of the open conferences between the two Houses on this subject, and gave a very elaborate report of the speeches of the managers for the Commons, particularly those of Sir E. Coke and Mr. Noy,—afterwards the inventor of the writ for ship-money,—then a flaming patriot.<sup>†</sup>

When the Petition of Right came up from the Commons, Williams warmly supported it; but, to show his moderation, he proposed to add a clause, "That, as they desired to preserve their own liberties, so they had regard to leave entire that power wherewith his Majesty was intrusted for the protection of his people." The Lords agreed to the amendment; but it was rejected by the Commons, under a suspicion that the Bishop had been "sprinkled with some Court holy water."

He afterwards gained unqualified applause for his assistance in carrying through the measure. The royal assent being for some time refused, he made a very excellent speech, showing that, as it stood, it was agreeable to our laws and constitution; and that it was no less honourable for the King, as it made him a King of freemen, not of slaves.

At last the words were pronounced, "*Le droit soit fait come il est désiré*," and the Petition of Right was law.

In the general joy which followed, the King, for a short time, sought to add to his popularity by appearing to take Williams again into his confidence. A conference then took place between them, which was made the foundation of all the Bishop's subsequent persecutions and misfortunes. To a question, "how the King might ingratiate himself with the people?" he answered, "That the Puritans were many, and strong sticklers; and if his Majesty would give but private orders to his ministers to connive a little at their party, and show them some indulgence, it might, perhaps, mollify them a little, and make them more

\* 2 Parl. Hist. 288.

† Ibid. 323.

pliant, though he did not promise that they would be trusty long to any government." The King said he took the advice in good part, and promised to follow it—and happy would it have been for him if he had so acted, — instead of throwing himself into the arms of Laud, and for eleven years (during which parliaments were intermitted) doing every thing to irritate and insult that party which, growing strong by persecution, deprived him of his crown and of his life.

It was thought that when Buckingham had been taken off, by the [JUNE, 1628.] fanaticism of Felton, Williams might have recovered his ascendancy; but that event only added to the power of Laud, who was successively made Bishop of London and Archbishop of Canterbury, and presided both in the Court of High Commission and in the Star Chamber. This wrong-headed man no doubt persuaded himself that he had no object in view but the welfare of the Church and the King, and that he was doing God good service by all the cruel measures he resorted to.

Unfortunately for the Church, and fatally for himself, he forthwith originated a controversy very similar to that which has recently sprung up at Oxford; but, thank God, the very learned and pious Tractarians have neither the power nor the wish to enforce their opinions by violent means. The Archbishop, without being a Roman Catholic, longed to come as near as possible to the doctrines and ceremonies of Rome, and issued a number of new regulations with respect to the position of the communion-table, the mode of administering the sacrament of the Lord's Supper, and other religious rites. These Williams considered not only contrary to the spirit of the Reformation, but in violation of ecclesiastical canons and the Articles of the Church of England,—and, to oppose them, he published a book, entitled "The Holy Table," pretty plainly insinuating that they led to Romanism, but at the same time using Scripture language, and such general arguments, that his book could not itself be made the subject of prosecution.\*

Laud, however, denounced all who differed from him as "Puritans," and eagerly looked out for an opportunity to prosecute Williams as their leader.

There was a suit depending in the episcopal court at Lincoln against some persons who had refused to comply with a prescribed ecclesiastical formality. The Bishop was unwilling to proceed to extremities against them, and, the prosecutor at the trial having called them "Puritans," he said something about "the Puritans being good subjects, and of his knowing that the King did not wish them to be hardly dealt with." Complaint of this language was immediately brought to Laud, and he directed it to be made the subject of an information in the Star Chamber—the *charge* to be, "for spreading false news, and disclosing what had passed between the defendant and the king, contrary to the oath of a Privy Councillor,"—and the *evidence*, that he

\* Clarendon says of it, that it displayed "much good learning, but too little gravity for a Bishop."

had published and misrepresented his conversation with the King about indulgence to the Puritans. As a preliminary step, his name was struck out from the list of Privy Councillors.

Noy was then Attorney General, and filed the information, but on looking into the case, he was so much ashamed of it, that [A. D. 1628.] it went to sleep for several years. On his death,— at the instigation of Laud, who had in vain tried to induce Williams to recant the doctrines of "The Holy Table," and to resign the deanery of Westminster,— it was revived. Still there was a difficulty in carrying it through without any evidence,— when Sir John Banks, the new Attorney General, dexterously and unscrupulously filed another information against the Bishop, imputing to him that he had tampered with the King's witnesses in the former suit.

This was equally unfounded, but, after a trial which lasted nine days, the Right Reverend Defendant was found guilty. [A. D. 1637.] Archbishop Laud, in pronouncing judgment, hypocritically said, "Sorry I am, my Lords, that such a man as my Lord Bishop of Lincoln for profession, and sorry that he, being so wise, so discreet and understanding a man every way, should come to deserve the censure of this Court. When I look upon and consider his excellent parts, both of nature and achieved unto by study and art; when I think upon his wisdom, learning, agility of memory, and the experience that accompanies him with all those endowments, it puts me to stand." The sentence was that the defendant should pay a fine of 10,000*l.*; should be imprisoned in the Tower during the King's pleasure; should be suspended from his ecclesiastical functions *tam a beneficiis quam officiis*; and should be referred over to the High Commission Court, there to be further dealt with as his offence should deserve.

Under this judgment he was immediately arrested and carried to the Tower, where he was kept a close prisoner between three and four years, till he was released by the Long Parliament. Meanwhile he was, in other respects, treated with great severity. He petitioned that "his fine might be taken up by 1000*l.* yearly, as his estate would bear it;" but Kilvert, a pettifogging attorney, and an infamous tool of his persecutors, was sent down to Buckden with an immediate execution for the 10,000*l.*,— seized all his furniture, plate, and books,— felled his timber,— slaughtered his deer,— sold for five pounds pictures which had cost him 400*l.*,— and continued revelling for several years in the palace without accounting for the monies he received, or paying any part of the fine.

Laud, not yet satiated, in the spring of 1639, caused another information to be filed against Williams, along with Lambert Osbaldeston, one of the Masters of Westminster school, "for divulging false news and lies to breed a disturbance between the late Lord Treasurer Weston and the Archbishop himself; for giving them nicknames, and for contriving to work the Archbishop's ruin." This charge was founded on certain private letters of the defendants, in which they

had reflected on some of the measures of the Lord Treasurer, and had called the Archbishop "the great little man." Being [Feb. 1639.] found guilty, the sentence upon the Bishop of Lincoln was, that he should be fined 5000*l.* to the King, and 3000*l.* to the Archbishop ; be imprisoned during the King's pleasure, and acknowledge his fault. He was supposed by his Judges to be rather leniently dealt with ; for Osbaldeston had a similar sentence, with the addition of *standing in the pillory and having his ears nailed to it.*

When it was thought that the ex-Lord Keeper's spirit was broken by these proceedings, an offer was made to liberate him on his giving up his bishopric and all his preferments in England, and taking a bishopric in Ireland. He answered, "that it were a tempting of God to part with all he had willingly, and leave himself no assurance of a livelihood ; that his debts, if he came out of the Tower, would cast him into another prison ; that he would never hazard himself into a condition to beg his bread ; and as to going into Ireland, that as he was imprisoned here under the King, he plainly saw he should soon be hanged there under the Lord Deputy."\* So he resolved to exercise his patience, and wait a better day.

His deliverance arrived much sooner than could then have been expected. The parliament, which was assembled in [Nov. 1640.] the beginning of 1640, upon the Scottish invasion, was abruptly dissolved before Williams could apply to it for redress ; but the November following was the memorable era of the meeting of "the Long Parliament." He now hoped for his own liberation, and vengeance on his oppressor. About this time he said to Hacket, his biographer, "I am right sorry for the King, who is like to be forsaken by his subjects. But for the Archbishop, he had best not meddle with me, for all the friends he can make will be too few to save him."

In a few days after the commencement of the session he presented a petition to the House Lords, praying that he might be set at liberty, and that a writ of summons might be sent to him as a Peer. This was opposed by Finch, the Lord Keeper, and by Archbishop Laud ; but the Lords agreed on an address to the King in his favour, and sent their own officer, the Gentleman Usher of the Black Rod, to the Tower [Nov. 16. 1640.] to deliver him out of custody. He was brought to Westminster forthwith, and, in the midst of many congratulations, took his seat on the Bishop's bench.

He could not refrain at first from launching out rather violently against those who had persecuted him, but after this ebullition he conducted himself with great moderation ; showing himself a friend to the monarchy and the church ; and were it not for the Jesuitical advice which he gave to Charles, about assenting to the execution of Strafford, his subsequent conduct must be applauded by all parties in

\* Hacket, part. ii. 136. According to Clarendon — "he had much to defend himself against the Archbishop here ; but if he was in Ireland there was a man (meaning the Earl of Strafford) who would cut off his head within one month."

the state. Some Peers, to whom chiefly he owed his liberation, having spoken with personal disrespect of the King, who was still residing at Westminster in the full exercise of the royal functions, he sharply rebuked them, — pointing out how the use of such language was contrary to the duty of good subjects, and was inconsistent with all notion of kingly government. They exclaimed, “We have conjured up a spirit, and would we could lay him again.” Clarendon relates, that now preaching before the King in his turn as Dean of Westminster, when mentioning the Presbyterian discipline, he said, “it was a government only fit for tailors and shoemakers and the like — not for noblemen and gentlemen,” — which giving great scandal to his patrons, “he reconciled himself to them by making merry with certain sharp sayings of the Court.” But the noble historian had such a spite against Williams, that this representation must be received with great suspicion.\*

From whatever cause,—the King, pretending to approve of his conduct, sent for him one evening, had a conference with him that lasted till after midnight, and, as a token of a full pardon, ordered the records of all the proceedings against him in the Star Chamber to be cancelled.

To some of his more respectable opponents Williams said, “If they had no worse foes than him, they might fear no harm, and that he saluted them with the charity of a Bishop;” but when Kilvert, who had behaved so abominably at Buckden, came to crave pardon and indemnity, he said, passionately, “I assure you pardon for what you have done before; but this is a new fault, that you take me to be of so base a spirit as to defile myself with treading on so mean a creature. Live still by pettyfogging, and think that I have forgotten you.”†

He strongly advised Charles not to assent to the act which deprived him of the power of dissolving this parliament at pleasure, and which must be considered the foundation of the impending revolution. Long before the King’s captivity, the House of Commons had become unpopular, so that there was a strong reaction throughout the nation in his favour; and if he could have called a new parliament he would have been safe.

But Williams’s conduct with respect to Strafford cannot be defended. In the first place, although the trial for the high treason was *causa sanguinis*, — contrary to the canons and immemorial usage, he contended for the right of the Bishops to be present and to vote upon it, and that they ought to exercise this right.‡

\* Hist. Reb. i. 536. 542. 548.

† Hacket, part. ii.

‡ There is a striking instance of the inaccuracy of Lord Clarendon in relating this transaction. He strongly blames Williams for denying the right of the Bishops to be present and to vote, — that he might deprive Strafford of their support; — whereas Hacket gives at full length a very long speech which Williams delivered, to prove that the Bishops on trials for life and death were to sit and vote like other Peers. — 3 St. Tr. 823. 2 Parl. Hist. 732. In capital cases the Bishops always withdraw under protest.

The Bill of Attainder being passed, although he professed to disapprove of it, he agreed to go with three other prelates to try to induce the King to assent to it, and thus he stated the question:—"Since his Majesty refers his own judgment to his Judges, and they are to answer it, if an innocent person suffers,—why may he not satisfy his conscience in the present matter, since competent Judges in the law have awarded that they find the Earl guilty of treason, by suffering the judgment to stand, though in his own mind he is satisfied that the party convicted was not criminous?" The other three Bishops, trusting to his learning and experience, joined with him in sanctioning this distinction, in laying all the blame on the Judges, and in saying that the King, with a good conscience might agree to Strafford's death. Clarendon mainly imputes Strafford's death to William's conduct on this occasion, saying that he acted his part with prodigious boldness and impiety." It is stated as matter of palliation by others, that Usher, the celebrated Archbishop of Armagh, was one of this deputation, and that Strafford, although aware of the advice he had given, was attended by him on the scaffold, and received from him the last consolations of religion.

Williams now visited his diocese, and tried to put down unlicensed preaching, which was beginning to spread formidably. On his return, being violently attacked in parliament for this proceeding, he ably defended himself in a conference between the two Houses, held in the Painted Chamber.

While afraid of the displeasure of the popular party, a new change of fortune awaited him. It was said he experienced almost as many vicissitudes as Marius, *Consul toties exulque; ex exule Consul.* Instead of being sent to Newgate, as he expected by the influence of the Puritans whom he had protected,—he was made by the King Archbishop of York, and placed, *de facto*, at the head of the Church of England. Laud, the Archbishop of Canterbury, was under impeachment in the Tower, and the clergy of the establishment looked, as their last hope, to him who had been for years persecuted and imprisoned as their enemy.

## CHAPTER LX.

## CONCLUSION OF THE LIFE OF LORD KEEPER WILLIAMS.

WILLIAMS had scarcely taken his seat in the House of Lords as Metropolitan when he had to defend the right of his order to sit there. A Bill came up from the Commons to exclude the Bishops entirely from parliament, and to disqualify them from all secular employments. When it got into committee, he delivered a very long and able speech against it, which made such an impression upon its supporters, that it was allowed to go to sleep for five months.\* The King complimented him on this occasion, saying, "My Lord, I commend you that you are no whit daunted with all disasters, but are zealous in defending your order."—"Please it your Majesty," replied the *Arch-bishop*, "I am a true Welshman, and they are observed never to run away till their general do first forsake them. No fear of my flinching whilst your Majesty doth countenance our cause."

But after the fatal attempt of the King to seize the five members in the House of Commons, all hope of a peaceable settlement was at an end. The cry against the Bishops was revived, and it was greatly exasperated by Williams having, as Dean of Westminster, gallantly defended the Abbey against a mob who wished to seize the regalia deposited there, and having put them to flight by an armed force. The Bishops were threatened with personal violence, and were prevented from entering the House of Lords.

Hereupon Williams drew up a protest, addressed to the King, which was signed by himself and eleven other Prelates. After dwelling upon their privileges as a constituent part of the assembly and one of the estates of the realm, "they humbly protest, before his Majesty and the noble house of Peers, that, saving unto themselves all their rights and interests of sitting and voting in the House at other times, they dare not sit or vote in the House of Peers until his Majesty shall further secure them from all affronts, indignities, and dangers. And whereas their fears are not built upon fantasies and conceits, but upon such grounds and objects as well may terrify men of good resolution and much constancy, they do, in all duty and humility, protest against all laws, orders, votes, resolutions, or determinations, as of themselves null and of none effect, which, in their forced and violent absence, have already passed, or which, during their forced and violent absence, shall hereafter pass, in that most honourable House."

This gave mortal offence to the Commons, who complained of it to

\* 2 Parl Hist. 794.

the upper House,—and all the twelve Prelates who signed it being arrested, ten of them, with the Archbishop of York at their head, were committed to the Tower; the other two, on account of their age and infirmities, being allowed to remain in the custody of the Serjeant at Arms.\*

It was an affecting circumstance that the two Archbishops, who had so long been foes, were now both in the Tower; and it is recorded, to their honour, that, in a Christian spirit, forgetting all past injuries and animosities, they were cordially reconciled. They did not personally converse together, that they might avoid the suspicion of plots, but they often sent each other messages of love and consolation.

The Commons proceeded with articles of impeachment for high treason against the twelve Bishops, and, afterwards, by bill of attainder; but to construe into high treason a protest against the validity of the acts of the assembly of which they were members, while they were by violence prevented from being present, was too flagrantly unjust even for those times, and the proceeding was allowed to drop.†

The Bill for excluding the Bishops from sitting in the parliament now passed the two Houses without farther opposition, and the question arose, whether it would receive the royal assent? Many, who thought they well knew Charles, believed that he would sooner have resigned his crown and his life than sanction such a heavy blow and great discouragement to the Church." What was their horror when, with his free assent, the Act became the law of the land! His reluctance is said to have been overcome by the last request of his beloved Henrietta, as he was attending her embarkation for the Continent at Dover. She had little respect for Protestant Prelates; she had been persuaded that this concession would so far gratify the Commons, that they would forego their other demands; and she was always more influenced by the love of present ease than by a strict adherence to principle, or the apprehension of distant consequences.

Soon after this Williams, and his brethren who had been committed [MAY 5, 1642.] along with him, were liberated; and it had been well for the reputation of the Parliamentary party if Laud, who could no longer be formidable, had been included in the order for their discharge. These holy men, when at large, found themselves still so much under popular odium in the metropolis, that it was necessary for them all to make their escape into the country as soon as possible. While they lay in prison ballads were composed upon them, and they were made the subject of caricatures, for which the English were beginning to show a genius. One print, that had a great sale, represented the Archbishop of York in his lawn sleeves and episcopal robes; a square cap on his head; and (to celebrate his defence of the Abbey, and his assault on the populace,) with bando-

\* 2 Parl. Hist. 893.

† 4 St. Tr. 63.

‡ Parl. Hist. 916.

leers about his neck, a musket on his shoulder, and a rest in his hand. By these means he became as unpopular as Laud had ever been, and instead of resuming possession of the Deanery, he found it necessary to follow the King to York, where the royal standard was unfurled, and preparations were proceeding for the commencement of hostilities.

He took possession of Cawood Castle, which belonged to his see, but he was soon obliged to fly from it in the dead of the night. Sir John Hotham and his son, who began [APRIL, 1624.] the civil war, having been proclaimed traitors for refusing to admit the King into Hull, made a sally out of that town with the design of taking Cawood Castle, where the Archbishop was collecting men and provisions for the King's use. News was brought, that young Hotham would arrive there by five o'clock next morning with a large force, and that he had drawn his sword in "a hectoring manner," uttering a vow that he would cut off the head of the Archbishop for having spoken very sharply against his disloyalty. The castle was in a ruinous state, and incapable of making any defence. The Archbishop, therefore, was obliged to effect his escape a little after midnight, with a small band of horsemen and what few valuables he could carry with him at so short a warning. He meant to seek refuge in his own country, and he set off "without a sumpter-horse or any provision for his journey, without a change of apparel, and almost without money, for all that he had been able to raise among his tenants in Yorkshire, he had sent to the royal treasury."\*

The following day he met the King beating up for volunteers, and handed over to him the stoutest of his men. Having received a royal pass to carry him into Wales,—on bended knee, with tears streaming from his eyes, and hearty prayers for a successful issue to the coming contest, he kissed his Majesty's hand and bade him adieu,—believing that it was for the last time. He journeyed on with a very slender retinue, and, notwithstanding the disturbed state of the country, after many alarms, safely reached Aberconway, near fifty years from the time when he had left the place as a stripling.

The energy of his character continued without abatement. He was looked up to with great pride by his countrymen, as one of the few Cambrians who had risen to high distinction in England, and he animated them with zeal in the royal cause. To draw down the blessing of Heaven upon his endeavours, he set all North Wales on a more earnest practice of religion, and ordered that frequent prayers should be put up in all churches, with fasting,—and he himself was almost daily in the pulpit, exhorting his hearers, in their own language, to defend the mitre and the crown. The emulation of the great families among each other had made them indifferent to the public struggle that was now going on, but he contrived to unite them all in one common resolution to resist any invasion by the parliamentary generals. For

\* Hacket, part ii. 208. 210.

nothing that he ever did was he so much praised by his contemporaries, as for the manner in which he put Conway Castle in a state of defence. He found it a ruin, but he repaired its walls, threw up important works to strengthen it, victualled it, and collected a stout garrison for it, which he saw regularly trained.

The King, hearing of his exertions, sent him a commission signed with his own hand, in which, after much praise bestowed on the Archbishop, and noticing the importance of Conway Castle, he says, "You having begun at your own charge to put the same into repair, we do heartily desire you to go on in that work, assuring you that whatsoever monies you shall lay out upon the fortification of the said castle, shall be repaid unto you before the custody thereof shall be put into any other hand than your own, or such as you shall recommend."\*

The Archbishop in consequence appointed two of his nephews to hold the castle for him;—but, as we shall see, this arrangement was unavailing, and he met with an ungrateful return for his military services.

While he still enjoyed the royal favour, he repaired to Oxford in [JAN. 1644.] consequence of a summons to attend his Majesty during the sitting of a rival parliament to be attempted there. He had now frequent conferences with Charles, and gave him some prophetic advice about Cromwell, who was as yet of mean rank, but whom he had known at Buckden. Says he, "That Oliver Cromwell, I am full sure, will turn out the most dangerous enemy your Majesty has. I never could make out his religion, but he was a common spokesman for sectaries, and maintained their part with stubbornness. He loves none that are more than his equals. Above all that live, I think he is the most mindful of an injury. He talks openly that it is fit some should act more vigorously against your forces, and bring your person into the power of the parliament. He says, 'his general, the Earl of Essex, is only half an enemy to your Majesty.' Every beast hath some evil properties; but Oliver Cromwell hath the properties of all evil beasts. My humble motion is, either [A. D. 1644.] that you would win him to you by promises of fair treatment, or catch him by some stratagem, and *cut him short.*" All this the King received with a smile of incredulity.†

The royal, in opposition to the republican parliament, assembled. Such respect was paid to the last regular statute which the King, Lords, and Commons had all assented to, that Williams, and other Bishops then at Oxford, did not take their places in the mock House of Lords, presided over by Lord Keeper Lane.‡ However, the King paid them the compliment to consult them, — on which occasion Williams made him a long speech, particularly complaining of the irregu-

\* Hacket, part ii. 208. 210.

† Ibid. 212.

‡ This seems to have given offence to those who ought to have constituted the right reverend bench. Hacket says testily, "Oxford wanted not Bishops at this time, but they were excluded to sit and vote as Peers in parliament."—Part ii. 214.

larities of the royal army. "Your soldiers," said he, "in their march and quarters are very unruly, and lose the people's affections everywhere by the oppressions they sustain." He recommended specific measures and concessions,—"with indemnity to the King's adherents; for we save a ship with the loss of the goods, not of the passengers;" thus concluding,—"But if your Majesty disdain to go so low, and will not put the good of the church and kingdom upon their faith, to which misery I fear our sins have brought us, I am ready to run on in the common hazard with your Majesty, and to live and die in your service." Charles professed to receive this counsel in good part, and when Williams took leave, again expressly charged him with the care and government of all North Wales,—especially of Conway Castle. Under a military escort he safely returned thither.

But he was not long allowed to remain in his command. The royalist leaders were not satisfied to see a churchman sharing their power, and Prince Rupert, always rash and headstrong, was induced to grant a commission to Sir John Owen, an officer noted for violence and covetousness, to supersede him. The inhabitants of the surrounding country had deposited all their most valuable effects in Conway Castle, and the Archbishop had made himself personally responsible for them. When required to resign, he indignantly denied the validity of Rupert's commission, and refused admittance [MAY 9, 1645.] to the new Governor. Sir John Owen thereupon surprised the castle by a large military force, and scaling the walls and bursting open the gates, he took possession of it, with all the ammunition, stores, and property which it contained. The Archbishop sent an earnest but respectful complaint to the King at Oxford, but could gain no further satisfaction than that "it should be considered at more leisure." He remonstrated no further, "lest he should say too much," but he felt deeply wounded by this great indignity.

During fifteen months, he remained in a state of inactivity, hearing of the field of Naseby and the utter ruin of the royal party. At the end of that period, he engaged in [AUGUST, 1646.] an affair which has brought some obloquy upon his memory. Colonel Milton, a parliamentary officer, who had got possession of Chester, marched with a considerable force across the Dee, through Flint and Denbighshire, to Conway town, and prevailed with the Archbishop to enter into a treaty to assist him to take the castle, still held by Sir John Owen for the King. The chief condition was, that those who had deposited their wealth in the castle, should have every thing restored to them which had escaped the rapacity of the royalists. The Archbishop then assembled his kindred and dependants, marched at their head, and joined Colonel Milton's regular troops in assaulting the castle. The garrison was so reduced that they could make but a short and ineffectual resistance, and the Archbishop was again master of the fortress.

He reconciled this proceeding to his principles of royalty by his old casuistry, "*licet uti alieno peccato.*" His apologist, admitting that

“his carriage did not become him to thrust himself in among the assailants,” mitigates his misconduct by the quotation from Sallust, “*non minus est turpe sua relinquere quam aliena invadere injustum.*”\* He was loudly accused of having renounced his allegiance and deliberately gone over to the rebels: but though the royal cause was then desperate, I believe his great object was to be revenged of the insult offered to him by Sir John Owen, which had been so long rankling in his bosom.

When he had seen all the property found in the castle restored to the right owners, he retired to the house of his kinswoman, the Lady Mostyn, at Gleddon, in the parish of Eglwysrose, in the county of Carnarvon, where he remained till his death. In this retreat he still anxiously listened to the news brought him of public affairs; and if his loyalty had suffered a short eclipse, it now shone out with fresh lustre. When told that the King, pressed by the forces under Fairfax, had, by the advice of Monsieur Montreville, secretly fled from Oxford, and repaired to the Scottish army before Newark, he wrung his hands, saying, “What! be advised by a *stranger*, and trust the *Scots*! then all is lost.” He was more and more afflicted as he successively heard of his fears being verified by the treacherous act of the Scotch army, in delivering up their confiding countryman to the parliament,—of his being seized by Joyce, and the independents,—of his flight to the Isle of Wight,—of the disastrous issue of his negotiations at Newport,—of his being made a close prisoner in London,—and of the preparations for the unprecedented proceeding of bringing him to an open trial. But when the news arrived, that after being browbeaten by Bradshaw, “the rider on the red horse who had power to take peace from the earth that men should kill one another, and to whom was given a great sword to cut off the Lord’s anointed,” Charles had been found guilty, and doomed to die,—and that the sentence had actually been carried into execution by striking off his head on a scaffold erected in front of his own palace at midday, before hundreds of thousands of his subjects,—the aged Archbishop fainted away, and vowed that he never would take comfort more.

He survived rather more than a year, remaining constantly in bed, except that every night, as the hall clock struck twelve, he rose, and having nothing but his shirt and waistcoat upon him, he knelt on his bare knees and prayed earnestly a quarter of an hour before he retired to his rest again—observing the season of midnight, because the Scriptures speak of Christ’s coming to judge the quick and the dead at midnight,—and the burthen of his prayer being, “Come, Lord Jesus, come quickly, and put an end to these days of sin and misery.” He longed for his own deliverance, saying, “I am ready for the Lord.”

At last, when his strength was much reduced, he was seized with a sharp attack of fever, which carried him off in a few hours. When

\* Hacket, part ii. 220.

the pangs of death were upon him, after the Visitation of the Sick had been twice read over to him, and he had received absolution, these words being repeated by the priest in his hearing, *the Lord be merciful to thee, the Lord receive thy soul*,—at that instant he first closed his own eyes with one hand, and then lifting up the other, his lips moved, and, recommending his spirit to his Redeemer, he expired. His death happened on [MARCH 25, 1650.] the 25th of March, the day of his birth, when he completed his 68th year.

Without any very high mental endowments, his extreme industry and energy, and a combination of fortuitous circumstances, against the occurrence of which the probabilities were incalculable,—raised him to great distinction, and mingled his name with transactions of permanent public interest. He will always be memorable in English history as the last of a long line of eminent ecclesiastics, who, with rare intervals, held for many centuries the highest judicial office in the kingdom, and exercised a powerful influence over the destinies of the nation.\*

All accounts represent him as very fiery in his temper, by which he was betrayed into rash measures, and gave great offence to those with whom he came into contact,—some, with Lord Clarendon at their head, ascribing this to systematic arrogance and imperiousness,—while his good-natured secretary explains away his “choler and high stomach” by his Welsh blood, asserting that he was speedily appeased, and that “there did not live that Christian that hated revenge more than he, or that would forgive an injury sooner.”

Though grasping wealth with eagerness, he spent it most munificently. While he held the Great Seal he was too much devoted to the duties of his office to be much given to hospitality; but when he retired, one of his detractors says, “he lived at Buckden the most episcopal of any of his predecessors.”† His house was open to all his neighbours of all degrees, lay and spiritual, and when persons of distinction were travelling that way he sumptuously entertained them and their retinues. He was likewise very charitable to the poor, and liberally assisted scholars of merit who were labouring under pecuniary difficulties, till he could permanently provide for them.

Although supposed to favour the Puritans, he incurred great scandal with that sect by encouraging stage plays. He used to have the players down from London to Buckden,—when the hall of the episcopal palace was converted into a theatre, where comedies were performed— even on a Sunday, Collier, in his “Annals of the Stage,”‡

\* Humanly speaking, lucky chances must be considered as having chiefly contributed to his extraordinary elevation, notwithstanding the application to him of the quotation, “Cujus ea vis fuisse ingenii atque animi cernitur ut quoconque loco natus esset, in quoconque tempus incidisset, fortunam ipse sibi facturas videatur.”

† Sanderson’s King James, part ii. p. 507.

‡ Vol. ii. 27.

asserts that "The Midsummer Night's Dream" was exhibited there on Sunday the 27th of September, 1631; and others add, that on that very day he had held an episcopal ordination, so that the play was for the amusement of the young priests.

It is difficult to get at the truth in such an age of faction; and, at any rate, we must not judge of an individual who lived two centuries ago by our own notions of propriety. It was long after the Reformation, before there was any essential change in manners and customs, and Hacket,—himself a Bishop, and a very grave and decent divine,—without making any admission, or entering into any specific denial respecting these charges, asserts "that Archbishop Williams did no more in recreating himself with such diversions at Buckden than he himself had seen that grave prelate, Archbishop Bancroft, do at Lambeth." We must remember that King James's "Book of Sports," commanding all good Christians and churchmen to play at football and other such games every Sunday afternoon, after having been present at Divine worship, was read during the morning service in every church and chapel in the kingdom.

Williams had such a sincere love for the Liturgy of the Church of England, that he caused it to be translated into Spanish and other foreign languages. He regularly kept up religious observances in his family, and at dinner a chapter was read in the English Bible daily by one of the choristers, and at supper another, in Latin, by one of his gentlemen.

Some accused him of licentiousness, and it was loudly whispered that about the time he was made Lord Keeper he had an intrigue with the Countess of Buckingham.\* Others would have it that he had promised to marry her,—that having got the Great Seal as her dowry, he refused to perform his promise,—and that he was displaced because, "now being come to the height of his preferment, hee did estrange himselfe from the old Countesse."<sup>†</sup>

Wilson, in his History of King James, seeks to refute all these stories, by asserting that Williams was *Eunuchus ab utero*. This is denied by Bishop Hacket, who, however, relates what would equally answer the purpose—that while a little boy in petticoats, he, along with his playmates, jumped from the walls of Conway in a windy day, expecting the wind to inflate their clothes, and make a parachute for them; but that, while the rest safely reached the ground, he fell precipitately upon a ragged stone, by which he was so mutilated that he could never have thought of marriage, and a want of chastity could not be imputed to him.<sup>‡</sup>

This statement is, in all probability, correct; but Williams, to avoid the contempt or ridicule which might have fallen upon him if it had

\* This story even reached Scotland. "It was rumoured every quher that he too grate familiaritie with Buckinghame's mother procured him thesse grate favours and preferments one a suddaine."—*Balfour*, ii. 93.

† Weldon.

‡ Hacket, p. 8.

been known that he had suffered such mutilation, carefully concealed it during his lifetime, and talked and wrote as if he had been a man of perfect integrity both in body and mind.\* However, being unmarried,—to avoid scandal, he kept only men servants in his house. To this circumstance his biographers ascribe its dirtiness and its disorders, which, they say, are best prevented by female superintendence.†

He was a remarkably handsome man; — “his person proper, his countenance comely, his complexion fair and lovely‡, his gait so stately that most people mistook it for pride.§

Till he heard of Charles’s execution he was merry and facetious in adverse as well as prosperous fortune; but after that event, if he would converse with any one, it was only respecting the enormous crime of Cromwell, Bradshaw, and the other regicides, and inquiring whether the Divine vengeance had not yet overtaken them?

Like his great predecessors, Morton and Wolsey, he had the sons of the principal nobility — of the Marquess of Hertford, and the Earls of Pembroke, Salisbury, and Leicester, and many other young gentlemen — reared in his family before they went to the University. They were taught the classics by his chaplains; they had proper instruction in all manly exercises from the officers of his household; and he himself read them lectures on logic, and catechised them in religion during Lent.

He affected to rival Wolsey in his princely expenditure on public buildings. He repaired and beautified Westminster Abbey at his own expence. He rebuilt Lincoln College, Oxford, merely because it had been founded by one of his predecessors; and he was a splendid benefactor to St. John’s College, Cambridge, the place of his education.

While Lord Keeper he embraced an opportunity of repurchasing his family estate, which he left, though considerably burdened with debt, to his nephew and heir, Sir Griffith Williams.

His writings which are entirely theological, I do not presume to criticise. They had long fallen into oblivion, but I should think they might now be read with advantage in the Tractarian controversy. He was superior in learning and acuteness to Laud, whose reputation is owing to the illegal, barbarous, unprovoked sentence passed upon him, — as little to be palliated as defended, — and the calm, dignified, and courageous manner in which he met it, — whereby all his faults, and follies, and cruelties were forgotten, and he, who if he had been

\* E. g. in his letter to Buckingham begging the deanery of Westminster, he says, “being unmarried and inclining so to continue;” — and his conversation with Prince Charles about the courtesan with whom he was in correspondence, rather indicates a desire that he should be considered *potentially* a libertine. — *Ante*, pp. 378, 379.

† Hacket. Philips.

‡ This corresponds with his portraits, all of which that I have seen represent him wearing a broad-brimmed hat, such as that in which Bradshaw “bullied.”

§ Philips.

let alone, would have sunk into oblivion, or remembered only for his bigotry and intemperance, is now regarded as a martyr and a saint.\*

Williams's printed speeches which have come down to us show a vile taste in oratory and composition. They are most pedantic, quibbling, and illogical.

He might have played a great part, first in opposing the arbitrary measures of the Court on his dismissal from office, and afterwards in checking the excesses of the parliamentary party when he was released from the Tower at the meeting of the Long Parliament; but he wanted moderation and firmness of purpose; he could not command the support of his own party, and he was constantly laying himself open to the assaults of his antagonists. There is no sufficient ground for Clarendon's censure, that he was "a man of very corrupt nature, whose passions transported him into the most unjustifiable actions;" but still less can he be taken for the immaculate character represented by Bishop Hacket, — although it speaks loudly for his good qualities, that he so powerfully attached to him a man of learning and discernment, who had known him most intimately for many years, and who continued warmly to defend him after his disgrace, and after his death.†

Williams was buried in a little Welsh church near Penrhyn, where a monument was some years after erected to his memory, for which an epitaph was written by the faithful Hacket, — recording at great length his origin, his accomplishments‡, and his services, — and thus concluding: —

" Postquam inter tempora luctuoissima  
Satur esset omnium que videret et audiret,  
Nec Regi aut Patria per rabiem perduellium amplius servire potuit.  
Anno Aetatis 68º expleto Martis 25º qui fuit ei natalis  
Summa fide in Christum, inconcussa erga Regem fidelitate  
Animam angina extinctus piissime Deo reddidit.  
Nec refert quod tantillum monumentum in occulto angulo positum  
Tanti viri memoriam servat,  
Cujus virtutes omnium etatum tempora celebrabunt."

\* — — — " Nothing in his life  
Became him like the leaving it."

† Hacket's " *Scrinia Reserata*, a memorial offered to the great deservings of John Williams, D.D." is one of the most curious pieces of biography in our language, and should be studied by all who would thoroughly understand the history of the reigns of James I. and Charles I. Consisting of two folio volumes, generally bound up together, — what it contains of Williams is like two grains of wheat in two bushels — (not of chaff) — of various other sorts of grain; — but it is full of most rare quotations, and of quaint illustrations. The author must have been a man of great learning and most agreeable conversation: he makes us always highly pleased with himself, if not with his hero. Dr. Johnson says, rather harshly, " This book is written with such depravity of genius, and such mixture of the fop and the pedant, as has not often appeared." Philips's " Life of Williams," written in the beginning of the last century, contains little additional information, and is a work of very inferior merit.

‡ (Inter alia) " *Novem Linguarum Thesaurus*." He was not like the polyglot Sir William Jones, ignorant of his mother tongue (Welsh).

## CHAPTER LXI.

## LIFE OF LORD KEEPER COVENTRY FROM HIS BIRTH TILL THE COMMENCEMENT OF THE PROCEEDINGS RESPECTING SHIP MONEY.

WE now come to the life of a steady lawyer,—regularly bred to the bar,—by “a mixture of good and evil arts” advancing to the highest honours of his profession,—of powerful though not brilliant parts,—of great skill in his own science, but without any ornamental accomplishments,—unscrupulous where any great object was to be gained, yet with tact to stop without too much shocking public opinion,—though unaided by principle, knowing how to preserve a certain reputation for honesty,—uniformly prosperous while living—and fortunate in his death.

The Great Seal having been surrendered up by Lord Keeper Williams, at Foxley, in Wiltshire, remained with the King for a few days till he returned to Whitehall, [Oct. 25, 1625.] and on the 1st of November, 1625, was delivered to Sir Thomas COVENTRY.\*

His family is traced to an inhabitant of the city of Coventry, who, coming to push his fortune in London in the reign of Henry IV., took the name of his native place. He left a son, John, who being an eminent mercer rose to be Sheriff in 1416, and Lord Mayor of London in 1425. He is much celebrated in the Chronicles for his discreet carriage in the struggle which took place during his Mayoralty between Humphrey Duke of Gloucester, and Henry Beaufort, Bishop of Winchester†, and for having been appointed one of the executors of the famous Richard Whittington, who had risen to be thrice Lord Mayor from having had no property in the world but his cat. He bought an estate at Cussington, in Oxfordshire, long possessed by his posterity. From him was descended Sir Thomas Coventry, a very learned Judge of the Court of Common Pleas in the reign of James I.‡, who married the heiress of a family of the name of Jeffreys, settled at Croome, in Worcestershire.

Thomas, the Lord Keeper, was their eldest son, and was born there in the year 1578. He was an instance, not so rare in former as in more recent times, of the son of a great lawyer proving a greater lawyer, although he laboured under the disadvantage of being heir to considerable wealth, both by his father's and mother's side. But he

\* Rot. Pat. 1. Car. 1. p. 24. n. 7.

† Ante, vol. i. p. 266.

‡ Appointed Jan. 25. 1606. See in Dugd. Or. Jur. p. 97, a curious account of the procession on this occasion from Serjeant's Inn to Westminster, when the frightful mistake was committed of making those of highest dignity march first, so that the students of the inns of Chancery came last.

showed from infancy uncommon quickness and vigour of application. He remained under the paternal roof with a private tutor till he was fourteen, when he was entered a gentleman commoner at Balliol College, Oxford. He resided there three years, till he took his Bachelor's degree. He was then removed to the Inner Temple, of which his father was a bencher, and he now diligently devoted himself to the study of the law. Instead of making acquaintance with William Shakespeare, or any of Burbage's company of players, he attached himself to Sir Edward Coke, then Attorney General. To law students and worshippers of his greatness this tyrant of the bar was condescending and kind, carrying them with him to public disputations, directing their private reading, and warning them against *propria praxis* as well as *prepostera lectio*.

When called to the bar, young Coventry's progress was slow but sure. In 1606 his father died, and it was expected that he would have retired to the family estates ; but he was ambitious, and he continued assiduously to follow his profession in the hope of political advancement.

So great did his reputation become in the course of a few years, [Ncv. 1616.] without the *prestige* of office, that when Sir Edward Coke was to be dismissed from the chief Justiceship of the King's Bench, Coventry, only thirty-seven years old, was designated by the public voice as his successor. Bacon, however, who had then a great ascendancy, disliked him for having been protected by Coke, and thus wrote to James : —

" I sent a warrant to the Lord Chancellor for making forth a writ for a new Chief Justice, leaving a blank for the name, to be supplied by your Majesty's presence ; for I never received your Majesty's express pleasure in it. If your Majesty resolve of Montagu, as I conceive and wish, it is very material, as these times are, that your Majesty have some care that the Recorder succeeding be a temperate and discreet man, and assured to your Majesty's service. If your Majesty, without too much harshness, can continue the place within your own servants it is best. If not, the man upon whom the choice is likely to fall (which is Coventry) I hold doubtful for your service ; not but that he is a well learned and an honest man ; but he hath been, as it were, bred by Lord Coke, and seasoned in his ways."\*

Montagu was appointed Chief Justice ; and Coventry, contriving to make it understood that, however much he respected the learning of his old master, he could not but lament his recent popular courses, was permitted to succeed as Recorder of London. An adhesion to ancient friendships, and a recollection of benefits received, do not seem in those days to have stood much in the way of promotion.

Having lost his first wife, who was of an ancient Worcestershire family, he now married " the widow of a citizen, — lovely, young, rich, and of good fame." " We may represent his happiness," says

his biographer, “in nothing more than in this, — that London had first given him the handsel of a place both honourable and gainful, together with a wife as loving as himself was uxorious, and of that sort which are not unaptly stiled housewives ; so that these two drew diversely, but in one way, and to one and the self-same end, — he in the exercise of his profession — she in the exercise of her domestic ; for they that knew the discipline of their house aver, that he waved that care as a contiguous distraction to his vocation, and left her only as a helper to manage that charge which best suited to her conversation.”\*

Coventry so rapidly got rid of all suspicion of favouring Sir E. Coke, that on the 14th of March in the following year he was made Solicitor General : and two days after, going down to Theobald's to be presented to the King, he received the honour of knighthood.

He was counsel for the Crown on the trial of the Somersets for the murder of Sir Thomas Overbury, and in all the state prosecutions which followed for some years : but, either from his own inclination, or the jealousy of the King's Serjeant and the Attorney General, he did not act a conspicuous part in any of them. Nevertheless he managed not only to enjoy favour while Lord Bacon was Chancellor, but, on the disgrace of that great statesman, in which Yelverton the Attorney General shared, to intrigue him- [A. D. 1621.] self into the office of Attorney General.

His great object was quietly to nurse his fortune. He devoted himself to the discharge of his professional duties, and to gaining the good graces of all those who might serve him. He not only cultivated Buckingham assiduously, but supported the new Lord Keeper Williams in the Court of Chancery, and tried to veil his deficiencies in legal acquirements, till it was evident that the Bishop's official career was drawing to a close. The Great Seal being then within his own grasp, it would perhaps have been too much to have expected that he should not, by a few winks, and shrugs, and stories of the Welshman's towering passions and ludicrous blunders, seek to precipitate his fall.

The only public prosecution I find him conducting while Attorney General, was that against Edward Floyd, for slandering [A. D. 1621.] the King and Queen of Bohemia. This case has been grossly misrepresented or misunderstood, and I am glad of an opportunity to explain it. It has been often cited as an instance of the abusive exercise of parliamentary privilege ; whereas, it was an instance of parliamentary impeachment. Floyd, a Catholic barrister, having said, “I have heard that Prague is taken ; and Goodman Palsgrave, and Goodwife Palsgrave, have taken to their heels and run away, and, as I have heard, Goodwife Palsgrave is taken prisoner,” — the Protestant zeal of the country was very much excited, and the House of Commons, whose powers were as yet very undefined, took the case up as a fit subject of impeachment, and contended that they had judi-

\* MS. Life of Lord Coventry in the British Museum.

cial criminal jurisdiction as much as the Lords. They never pretended that any offence had been given to their body, or to any member of it; but they alleged that a public crime had been committed, of which they had cognizance. He was accordingly "impeached before the Commons in Parliament assembled," and the words being proved, a heavy sentence was passed upon him. He appealed to the King, who next morning sent to the Commons to inquire on what precedents they grounded their claim to judge offences which did not concern their privileges, and by what reasoning it could be shown, that a court which did not receive evidence upon oath, could justly condemn a prisoner who asserted his innocence. This led to a conference between the two Houses, the Lords contending that their judicature was entrenched upon, — and the leaders of the Commons finding that this new pretension could not be supported, it was agreed that Floyde should be impeached before the Lords, — an entry being made in the Journals to soften the defeat, "that his trial before the Commons should not prejudice the rights of either House."

Coventry now conducted the prosecution at the bar of the House of Lords, not as Attorney General, but as manager for the Commons. He stated the case with moderation, and proved it by certain written depositions which he read. The defendant having been heard, he was found guilty, *nemine dissentienti*.

Coventry then came to the clerk's table, and recapitulating his offence, prayed judgment against him, whereupon sentence was pronounced, "That he should be incapable to bear arms as a gentleman, — that he should ever be held infamous, and his testimony not taken in any court or cause, — that he should be set on a horse's back at Westminster Hall, with his face to the horse's tail, and holding the tail in his hands, with papers on his head and breast declaring his offence, — that he should ride to the pillory in Cheapside, there to stand two hours on the pillory, and be branded on the forehead with the letter K., — that he should on a subsequent day be whipped from the Fleet to Westminster Hall, at the cart's tail, and then stand on the pillory there two hours, — that he should be fined in the sum of 5000*l.*, — and that he should be imprisoned in Newgate during life." So shocked were the Lords themselves with this inhuman punishment, that they made a standing order, "That in future when upon any person prosecuted before the House being found guilty, judgment shall not be given till a future day, that time may be taken to consider thereof." Still upon this occasion, the Lords were acting in the exercise of their power of trying commoners for misdemeanours on the accusation of the Commons, and there is no pretence for citing the case to throw odium upon parliamentary privilege.\*

\* 2 St. Tr. 1153. The sentence is happily ridiculed by Sheridan, who said of a person who had published a pamphlet against him — "I suppose that Mr. — thinks I am angry with him; but he is mistaken, for I never harbour resentment. If his punishment depended on me, I would show him that the dignity of my mind is superior to all vindictive feelings. Far should I be from wishing to inflict a

Buckingham had found it difficult to get rid of Williams as Lord Keeper in the latter end of James's reign, but held [MARCH, 1625.] the crown in his pocket on the accession of "Baby Charles." Sir Henry Hobart, the Chief Justice of the Common Pleas, who was first thought of for the Great Seal, having shown some symptoms of independence, he resolved to give it to the discreet Coventry, on whom he thought he might implicitly rely. He accordingly wrote him an offer "to step into the shoes of my Lord of Lincoln," — giving him time to consider of it. Mr. Attorney returned an answer, in which he affected to say, that he had [Sept. 13, 1625.] undergone a great conflict and perplexity of thoughts in measuring his fitness for such promotion, but concludes by expressing the dutiful resolution, "to lay himself in all humility and submission at the feet of his Sovereign, to dispose of him as should seem best to his own princely wisdom and goodness," which, says he, "if it be that way as your Grace told me his Highness did incline, I shall dutifully obey, and faithfully undergo it, my hope being that God and the King's Majesty will bear with my infirmities, and accept my true heart and willing endeavour."

Before his formal appointment, when his approaching elevation was known, Lord Bacon, now living in retirement in his chambers in Gray's Inn, applied to him to provide for an old dependant who had been cast away like his master, and was now in great straits. His refusal is unfeeling and discreditable. After advertizing to Bacon's polite compliment on his appointment, and declaring "his unaptness to so great an employment, notwithstanding his submission to stand in that station where his Majesty will have him," he says, — "as for the request you make for your servant, though I protest I am not yet engaged by promise to any, because I held it too much boldness towards my Master, and dis courtesy towards my Lord Keeper, to dispose of places while he had the Seal; yet in respect I have some servants, and some of my kindred apt for the place you speak of, and have been already so much importuned by noble persons when I lately was with his Majesty at Salisbury, as it will be hard with me to give them all denial; I am not able to discern how I am able to accommodate your servant; though for your sake, and in respect of the former knowledge myself have had of the merit and worth of the gentleman, I should be most ready and willing to perform your desire, if it were in my power." How different from this heartless civility would have been his reply to a worthless courtier basking in the sunshine of court favour!

The new Lord Keeper was appointed by patent, whereby he was empowered "to hear, examine, and determine such causes, matters, and suits as shall happen to be, as [Nov. 1. 1625.]

capital punishment upon him grounded on his attack upon me; but yet, on account of his general character and conduct, and as a warning to others, I would merely order him to be publicly whipped three times; to be placed in the pillory four times; to be confined in prison seven years; and then, as he would enjoy freedom the more, after so long a confinement, I would have him transported for the remainder of his life." — 2 *John Taylor's Records*, 174.

well in the Chancery as in the Star Chamber, like as the Chancellor of England might and was accustomed to do." The Close Roll of this year is lost, and I find no account of the delivery of the Great Seal to him by the King, or of his installation.

He set to work very assiduously in the Court of Chancery, and there were many re-hearings before him, — as he was considered an accomplished Equity lawyer, and so little confidence could be placed in the skill of his right reverend predecessor. He is said to have behaved with great moderation, always speaking of Williams respectfully, reversing as seldom as possible, and under colour of some fresh evidence, or of some new point being taken before him.

"At his first accession to the Seal he found 200 causes in the paper ready for hearing, all which (with such as fell in the way) he determined within the year, so that the clients of the Court did not languish in expectation of the issue of their causes."<sup>•</sup>

But although he was allowed to be an able Judge, it is plain that the jurisdiction of the Court was still in a very unsettled state. We have a report of one of the earliest cases before him, showing that, while he decided legal rights himself, — when difficult questions of equity arose, he sent a case to the common-law Judges.<sup>†</sup>

A commission was issued to Sir Julius Cæsar, Master of the Rolls, and others, to assist him in hearing causes; but, unless at the commencement of his judicial career he had no distraction from parliaments, and he himself did the great bulk of the business of the Court.

[FEB. 6, 1626.] In his second term he took his place on the wool-sack, and was obliged to watch over a short but stormy session.<sup>‡</sup>

One reason of Charles I.'s dislike of parliaments may have been his repugnance to speaking in public, from the hesitation in his utterance. At the opening of his second parliament, he merely said that he hated long speeches, and was not a very good hand at speaking, and therefore he meant to bring in the old custom which many of his predecessors had used, that my Lord Keeper should explain the royal will.

The Lord Keeper, going through the usual form of conferring with the King, as if taking instructions from him at the moment, then made a long and elaborate oration. The practice of taking a text of Scripture for a theme, which we have so often noticed, had now fallen into disuetude, and, I believe, was never adopted by lay Chancellors. Coventry, having dwelt much upon the use of parliaments, proceeded to an eulogium on the new Sovereign, "who doth strive whether he should be accounted *major* or *melior*, a greater King or a better man,"

• M.S. Life of Lord Coventrie in the British Museum.

† See Farmer v. Compton, Chancery Reports in reign of Charles I., p. 1.

‡ At this time the judicial and political duties of the Lord Chancellor clashed much, for the Court of Chancery and the House of Lords both met punctually at eight o'clock in the morning. The Commons assembled at the same hour, never sitting later than twelve, and giving the afternoon to committees.

justly complimenting him on "his daily and unwearied access to this House before his access to the Crown, and his gracious readiness in all conferences of importance."\* Then came a declaration of his Majesty's good intentions during his future reign. "For his Majesty doth consider that the royal throne on which God, out of his mercy to us, hath set him, is the fountain of all justice, and that good laws are the streams and rills by which the benefit and use of this fountain is dispersed to his people. And it is his Majesty's care and study that his people may see, with comfort and joy of heart, that this fountain is not dry.†

Coventry was not yet a Peer, and he acted only as Speaker in putting the question, without taking a share in the debates; but he must be considered responsible for the measures of the government as far as law was concerned, and they were very unfortunate. The Commons were incensed by the trick of trying to disqualify Sir Edward Coke and several of the popular leaders, by nominating them Sheriffs of their counties.‡

The same policy was pursued, with the like effect, in the Upper House. Buckingham, greatly dreading the disclosures which might be made respecting his Spanish negotiations by the Earl of Bristol, a writ of summons was not sent to that nobleman; and on this being complained of as a breach of privilege, the Lord Keeper accompanied the writ with a mandate, that "his Lordship's personal attendance should be forborne." Bristol insisting on his right to take his seat as a Peer, the Attorney General was directed to exhibit articles of impeachment against him for high treason, and he was committed to the Tower. But these violent proceedings only irritated both Houses the more. The Commons impeached Buckingham, and the Lords showed no disinclination to listen to the charges against him. Notwithstanding an urgent letter of the King to the Speaker of the House of Commons to hasten the supply, they there talked only of grievances, and Clement Coke, Sir Edward's eldest son, said, "it was better to die by an enemy than to suffer at home."

By the Lord Keeper's advice, both Houses were summoned to attend the King at Whitehall,—when the King gently, and the Lord Keeper bitterly, reproached them for their refractory conduct. The latter was particularly severe upon the Commons for the language they had permitted Clement Coke to hold among them,—dwelt upon

\* Notwithstanding the errors into which Charles was led when he came to the throne, it is impossible not to admire his amiable and praiseworthy demeanour during his father's lifetime. The Journals of the House of Lords show that he was constant in his attendance there, and he seems to have been ever anxious to quiet all disputes, and to do a good turn to everybody.

† 2 Parl. Hist. 39.

‡ I have often thought that it must have been an amusing spectacle at the Bucks assizes, to see the great Ex-chief Justice with his white wand attending the Judges, who must have found it very convenient, if they were puzzled by any point of law which arose, to take the opinion upon it of the High Sheriff.

their unfounded charges against the Duke of Buckingham,— and went through all their proceedings since the commencement of the session, which, he said, showed an entire forgetfulness of duty.\* The King, at parting, no doubt prompted by Coventry, plainly intimated to them that, as parliaments were altogether in his power for their calling, sitting, and dissolution, if they were not more submissive he must govern without them.†

A curious constitutional question arose a few days after, which very much perplexed the Lord Keeper, and remains to this day undetermined. The Earl of Bristol, in his defence, relied upon communications which had passed between him and the King when Prince at Madrid, and to prove these proposed to call the King himself as a witness. The Lord Keeper gave it as his opinion, that the Sovereign cannot be examined in any judicial proceeding under an oath or without an oath, as he is the fountain of justice, and since no wrong may be imputed to him, the evidence would be without temporal sanction. On the other side they pointed out the hardship of an innocent man being deprived of his defence by the heir to the crown becoming King, and urged that substantial justice ought to be paramount to all technical rules.

A proposal was made which could not be resisted, that the Judges should be consulted, and two questions were propounded for their consideration: 1. Whether, in case of treason or felony, the King's testimony was to be admitted or not? 2. "Whether words spoken to the Prince, who is after King, makes any alteration in this case?" But when the Judges, on a subsequent day, declared by the Lord Chief Justice that his Majesty, by his Attorney General, had informed them that, "not being able to discern the consequence which might happen to the prejudice of his crown from these general questions, his pleasure was that they should forbear to give an answer thereto."‡

The Lord Keeper further increased the irritation in the Lords by

\* One complaint which he makes shows how searching the inquiries were which the popular leaders were now disposed to institute, and excuses the warrants of Secretaries of State to open letters at the Post Office. "Your committees have presumed to examine the letters of secretaries of state, nay his own (the King's), and sent a general warrant to his signet office, and commanded his officers not only to produce and show the records, but their books and private notes which they made for his Majesty's service. This his Majesty holds as insufferable as it was in former times unusual."

† 2 Parl. Hist. 60.

‡ I humbly apprehend that the Sovereign, if so pleased, might be examined as a witness in any case civil or criminal, but must be sworn, although there would be no temporal sanction to the oath,— See 2 Rol. Ab 686. The simple certificate of King James I. as to what had passed in his hearing, was received as evidence in the Court of Chancery. — *Abigny v. Clifford*, Hob. 213. But Willis, C.B., stated that in every other case the King's certificate had been refused. — *Omichund v. Barker*, Willis, 550. In the Berkeley Peerage case before the House of Lords in 1811, there was an intention of calling George IV., then Prince Regent, as a witness, and I believe the general opinion was that he might have been examined, but not without being sworn.

committing to the Tower the Earl of Arundel, Earl Marshal, for marrying, without the King's consent, his son to a daughter of the Duke of Lennox, allied to the royal family. The Lords voted his imprisonment pending the Session an infringement of their privileges, and refused to proceed with any business till he was restored to liberty. This interposition was a heavy blow to the Court, as he held five proxies, which he was resolved to use in favour of Bristol and against Buckingham.

Seeing that all threats and violent measures were unavailing to sway the parliament, the usual resolution of the Stuarts under such circumstances was taken — of an abrupt dissolution. The Lords so far sympathised with the Commons, that, hearing of what was intended, they petitioned the King for a short delay. His answer, the Lord Keeper being at his elbow, was, "No, not of one minute."\*

Angry recriminations were circulated through the country, under the titles of "The King's Reasons for dissolving Parliament," and "The intended Remonstrance of the Commons." The Earls of Bristol and Arundel, with the popular leaders of the Commons, were imprisoned by order of the King in Council. An attempt was now made to commit in the King's name, without specifying any offence ; and if it had succeeded, "Lettres de cachet" would have been established in England.

But the exhausted state of the Exchequer on this, as on many other occasions during the seventeenth century, proved the safeguard of our liberties. Buckingham's inglorious expedition to the Isle of Rhé caused a lavish expenditure, which all the irregular modes of raising money resorted to were unable to supply. The Lord Keeper was so imprudent as to sanction an attempt directly to impose new duties on merchandise by proclamation ; but this being a palpable attempt to violate existing statutes, and not to evade them,—even the Judges declared it to be illegal. At last, in the beginning of 1628, such was the want of money, that no expedient remained but the calling of a fresh parliament. As a slight concession to public opinion, the gaols were all cleared of their patriotic inmates ; but the obstinacy of the King was not subdued, and he was not prepared to lower his pretensions.

On the first day of the session he said to the two Houses,—"Should you not do your duties in contributing what the [MARCH 17, 1628.] state at this time needs, I must, in discharge of my conscience, use those other means which God hath put in my hands to save that which the follies of other men may otherwise hazard to lose ;" and the Lord Keeper concluded a long oration with these words : "Therefore, so resolve of your supplies that they may be timely and sufficient, sorting the occasion : your aid is lost if too little or too late, and his Majesty is resolved that his affairs cannot permit him to expect it overlong. This way of parliamentary supplies, as his Majesty

hath told you, he hath chosen not as the only way, but as the fittest; not because he is destitute of others, but because it is most agreeable to the goodness of his own most gracious disposition, and to the desire and weal of his people. If this be deferred, necessity and the sword of the enemy make way for others. Remember his Majesty's admonition; I say, remember it.”\*

To the intelligence, moderation, and firmness of this parliament, we are mainly indebted for the liberty we now enjoy.

A sufficient aid being voted, but not definitively,—the subject of arbitrary imprisonment was taken up by the two Houses, and many conferences were held between them, in which Sir Edward Coke displayed the fire of youth with the wariness of age.† Pym, in spite of his minute subdivisions, gained the admiration of the House and of the country by his energy, and laid the foundation of that reputation which shone out with such splendour in the Long Parliament. Wentworth, still a patriot, shewed what ascendancy he could give to whichever side he espoused.

A plan was laid to put an end to these discussions by calling the two Houses before the King, and making a declaration to them of the King's respect for liberty. Accordingly the Lord Keeper, in his presence, said, “He holdeth *Magna Charta*, and the other six statutes insisted upon for the subjects' liberty, to be all in force, and assures you that he will maintain all his subjects in the just freedom of their persons and safety of their estates, and that he will govern according to the laws and statutes of this realm, and that you shall find as much security in his Majesty's royal word and promise as in the strength of any law ye can make, so that hereafter ye shall never have cause to complain.”

The answer to this speech was “the Petition of Right,” Wentworth exclaiming, sarcastically, “Never parliament trusted more in the goodness of their King, so far as regardeth ourselves; but we are ambitious that his Majesty's goodness may remain to posterity.” A statutable recognition was required of the illegality of raising money in the shape of loans, or by any other contrivance, without the authority of parliament; of commitments by the King, without stating a sufficient cause in the warrant; of quartering soldiers in private

\* Rush. i. 477. 2 Parl. Hist. 221.

† Yet he sometimes discoursed as if commenting on a section of Littleton. He says that an Englishman hath and ought to have a fee in his liberty, and not a mere tenancy at will; “for no tenant at will will support or improve any thing, because he hath no certain estate; ergo, to make men tenants at will of their liberties, destroys all industry and endeavours whatsoever; and so much for these six principal reasons: —

“Taken { A re ipse,  
A minore ad majus,  
A remediis,  
From the extent and universality,  
From the indefiniteness of the time,  
A fine. } } of } Honour,  
Profit,  
Security,  
Industry.”

houses; and of trying soldiers, mariners, and their accomplices, in time of peace, by martial law.

Coventry assisted in all the shifts and contrivances by which Charles attempted to evade giving an unqualified assent to this act, but stood by his side, when he at last, with his own lips pronounced the words, “Soit droit fait come il est désiré,” amidst the plaudits of all present, followed by unbounded rejoicings throughout the nation.\*

The good understanding, however, was of short duration, for the King, receiving very bad advice from Coventry and other courtiers, insisted on his authority to levy tonnage and poundage by his prerogative alone; and the Commons resumed with fresh ardour the impeachment of Buckingham. To put an end to these proceedings, the King came to the House of Lords one morning at nine o'clock, without his crown or his robes, — the Peers likewise being unrobed. Mounting the throne, he ordered the Black Rod to summon the Commons, who had met at eight, and were framing a remonstrance to remind him that by the Petition of Right he was precluded from levying duties on merchandise without the previous consent of parliament.

When they had come to the bar he made a speech, trying to explain away the Petition of Right, which, he said, he had been told, would not interfere with his lawful prerogative; and he insisted on his inherent and hereditary title to tonnage and poundage. He then gave the royal assent to the subsidy and other Bills which had passed, and the Lord Keeper, by his orders, prorogued the parliament.

Coventry's conduct during the Session had given so much satisfaction to the Court, that he was now raised to the peerage by the title of Baron Coventry, of Aylesborough, in the county of Worcester.

A few weeks after, his position was considerably altered by the assassination of Buckingham, to whom he owed his elevation; — and, till the apostasy and rise of Wentworth under a new name, which followed after no long interval, he was himself the most influential adviser of the Crown. Unhappily, instead of checking Charles's arbitrary propensities, he zealously encouraged and abetted them.

In the beginning of the following year the same parliament re-assembled; but all confidence in the sincerity of Charles, [JAN. 20, 1629.] and the honesty or prudence of the Lord Keeper and his other ministers, was gone, by the disgraceful artifice resorted to of circulating, as by authority, copies of the Petition of Right, with the evasive answer to it which had first been pronounced.

The Lord Keeper was strongly suspected of being the author of this proceeding; and a direct attack was made upon him along with the Barons of the Exchequer, for having decided in their Courts that tonnage and poundage might be lawfully levied without an act of parliament. Charles, when it was too late, tried to conciliate, by declaring that he did not challenge tonnage and poundage as a right, and

that he was willing that an act should pass to confer them upon him. The Commons threatened to punish the officers who had levied these duties unlawfully, —when Secretary Cook declared that the King would not separate the obedience of his servants from his own acts, nor suffer them to be punished for executing his commands.

This led to the famous resolutions, "that whosoever shall advise the taking of tonnage and poundage, not being granted [MARCH 2.] by parliament, shall be reputed a capital enemy to this kingdom and government; and that whatever merchant or other person shall pay tonnage and poundage, not being granted by parliament, shall be reputed a betrayer of the liberties of England."\*

Finch, the Speaker, refusing to put these resolutions, and wishing to leave the House was forcibly held in the chair till they were carried. Meanwhile the King was in the House of Lords, impatient to put an end to these proceedings by a dissolution, and (the Lord Keeper standing by his side) he ordered the Usher of the Black Rod to summon the Commons to attend his Majesty at the bar forthwith. This officer went with the emblem of his office in his hand, and knocked at the door of the House of Commons, but was barred out, and obliged to report on his return that he could not procure admittance. The Captain of the Guard, in a little time, was ordered to break the door open; but going for that purpose he found that the [MARCH 10, 1629.] Commons had adjourned. On the day of the adjournment the King again went to the House of Lords; and the Lord Keeper, without asking the attendance of the Commons, dissolved the Parliament.

This was the last time that Coventry ever appeared in the House of Lords; for an interval followed of near twelve years without a parliament, and before another met he was snatched away from the impending troubles.

A settled resolution was now formed to establish despotism in England, and, but for the formidable insurrection which broke out in Scotland, there is scarcely a doubt that the scheme would have succeeded, and that "parliament" would have been read of in our history as an obsolete institution, showing that our ancestors were free. I must consider Lord Keeper Coventry the most culpable of the conspirators, although, from the wariness of his nature and the mediocrity of his talents, he has escaped the full measure of indignation which his conduct deserved. Charles himself was an absolutist *par métier* (as Frederick the Great said of himself), and considering the notions of Divine right which he inherited from his father, and which were assiduously inculcated by the ministers of religion around him, we need not wonder that after the three attempts he had made to hold parliaments, his conscience was satisfied with the conviction that, being useless and mischievous, they might be safely superseded by prerogative. Laud, a narrow-minded priest, looked with such horror

upon the Puritans, that he mixed up their love of freedom with their dislike of episcopacy, and might excusably think that he was promoting both the temporal and spiritual interests of the community by assisting in obtaining supreme power for the pious Head of the Church. Strafford, with great genius, had been educated only as a country gentlemen, and passing, with the zeal of a renegade, from the popular to the prerogative side, he perhaps incurred less moral blame than if he had been regularly trained in a familiar acquaintance with the laws and constitution of his country. Noy, the Attorney General, and Littleton, the Solicitor General, who had gone over along with him, thought they were little to blame while they imitated the example and received the warm applauses of the head of their profession,—a Peer of parliament and in possession of the Great Seal. Lord Coventry had not even the poor apology set up for Lord Bacon, that he was acting under the uncontrollable influence of an imperious minister. After the death of Buckingham Charles thought for himself, and was open to any advice that might be offered to him by any of his counsellors. There cannot be a doubt, therefore, that Coventry might have interposed effectively to deprecate the unconstitutional, illegal, cruel, and oppressive measures which were now resorted to; but, instead of this, in a cool, quiet, and cunning manner, he suggested them, he executed them, and he defended them. Thinking that a time of retribution might possibly arrive, he studied, as far as he could, to avoid the appearance of taking a prominent part at the Council-table or in the Star Chamber; but his were the orders, his were the proclamations, his were the prosecutions, and his were the sentences, which marked the next eleven years of arbitrary rule, and which, if he had succeeded in his enterprise, might have made him be celebrated as another Richelieu.

As soon as parliament was dissolved the popular leaders of the House of Commons were summoned before the Council, and being examined by the Lord Keeper respecting their conduct at the conclusion of the session—particularly in keeping the Speaker in the chair, and forcing him to put the question on the resolution against taxing without the authority of parliament,—they were all committed to prison by warrants which did not express the cause of commitment. The legality of such warrants had been denied; and if they could be established, a great step was gained, for thereafter no redress could be obtained by an appeal to the ordinary legal tribunals.

Some apprehension was entertained respecting the firmness of Sir Randolph Crew, the Lord Chief Justice of the King's Bench, a very learned lawyer, who had gone considerable lengths in supporting the measures of the Government, but was supposed not to be entirely free from principle, or the dread of the House of Commons, if there should ever be another parliament. He was therefore unceremoniously dismissed from his office by the Lord Keeper, and Sir Nicholas Hyde, in whom the event showed that entire confidence was rightly placed, was appointed his successor.

The Lord Keeper then directed certain questions to be put to the Judges, with the view of for ever extinguishing freedom of speech in parliament, and subjecting refractory members to the jurisdiction of the King's Judges for their words and conduct as representatives of the people. These venerable sages, who it is contended ought constitutionally to have been considered the arbiters of parliamentary privileges, unanimously returned for answer, "that freedom of speech only extends to things debated in parliament *in a parliamentary course*, and that a parliament man, committing an offence against the King or Council in parliament, not in a parliament way, may be punished for it after the parliament ended; for the parliament shall not give privilege to any one *contra morem parliamentarium* exceeding the bounds of his place and duty,"—whereof the Courts were necessarily to be the sole judges.\*

Writs of habeas corpus were sued out in vain, and Sir John Eliot and others were convicted and sentenced for what they had done in the House of Commons. No writ of error could then be brought, as parliament was not allowed to sit; but the judgment was reversed after the death of Lord Coventry and many years after the defendants had suffered the punishment so unjustly inflicted upon them.†

In Chamber's case, the Lord Keeper was supposed to show great moderation for those times. The defendant, an eminent Turkey merchant, being required to pay exorbitant duties on goods not imposed by parliament, had the temerity to say that "merchants are in no part of the world so screwed as in England, and that in Turkey they had more encouragement." Being prosecuted by this seditious speech in the Star Chamber, he was of course found guilty, and Laud and several others were for fining him 3000*l.*; but the Lord Keeeper mildly proposed 1500*l.*, and the fine was at last fixed at 2000*l.*, the defendant likewise being ordered to read an acknowledgment of his great offence, dictated by the Attorney General.‡

In the next case, which was a prosecution against Dr. Alexander Leighton, a Scotch divine, for slandering prelacy, there [A. D. 1630.] was no division of opinion, and the Lord Keeper pronounced sentence in which all concurred, "that the defendant should be imprisoned in the Fleet during life,—should be fined 10,000*l.*,—and after being degraded from holy orders by the High Commissioners, should be set in the pillory in Westminster,—should there be whipped,—should after being whipped again be set in the pillory,—should have one of his ears cut off,—should have his nose slit—should be branded in the face with a double S. S. for a Sower of Sedition,—

\* It should however be recollect to the credit of the Judges, that the year before, in Felton's case, there being abundant evidence to convict him, and neither the King, the Lord Keeper, nor the Attorney General pressing them for a contrary opinion, "they agreed that he ought not to be tortured by the rack, for no such punishment is known or allowed by our law."—3 St. Tr. 371.

† 3 St. Tr. 381.

† 3 St. Tr. 380.

should afterwards he set in the pillory in Cheapside and there whipt, and after being whipt be again set in the pillory, and have his other ear cut off.”\*

A book was now industriously circulated, entitled “A Proposition for his Majesty’s Service to bridle the Impertinency of Parliaments,” recommending that, after the fashion of France and other Continental states, all the towns in England should be fortified and garrisoned; that all highways should lead through these towns; that no one should be allowed to enter them without a passport, showing whence he came and whither he was going, and that the gates be shut all night, the keys being kept by the Mayor or Governor; that innkeepers be required to deliver in the names of all strangers who come to their houses; that the ruined castles to be found near most cities should be repaired, bulwarks and ramparts for ordnance being added according to the rules of fortification; that an oath should be required, acknowledging that the King is as absolute as any other Christian Prince, and may by proclamation either make or reverse laws without consent of parliament; that the example of Louis XI. should be followed, who found the like opposition from popular assemblies, and effectually suppressed them; that instead of parliamentary subsidies, a tax, to be called “a decimation,” should be imposed by the King, importing the tenth of all subjects’ estates to be paid as a yearly rent to their Prince; that the monopoly of the sale of salt should be assumed by the King, as in foreign countries; that 5*l. per cent.* on the value of all property in litigation be demanded by the Crown, and for recompence thereof to limit all lawyers’ fees and gettings (so excessive in England), whereby the subject should save more in fees and charges than he would give in this new gabella, reckoned to bring in 50,000*l.* a year; that there should likewise be imposed a gabella, as in Tuscany, on all cattle, horses, flesh, fish, and other victuals, bread excepted; and, lastly, that the King should strictly enforce the keeping of fast days, granting a dispensation to those willing to pay for it, which it was calculated would yield 100,000*l.* a year, without any disgust, because it would be every one’s choice to give it or no. Thus was the King of England for ever after to be powerful, rich, and independent, and without distraction to exercise a paternal rule over his dutiful and loving subjects!

But the scheme caused much scandal, being considered a plain proof that the King was avowedly aiming at despotic sway, and it excited such dangerous discontents, that the Lord Keeper thought the discreet course would be to disclaim it, and to institute a sham prosecution against some who had read the book, which the Court had at first

\* Laud’s Journal shows that this sentence was rigorously carried into execution. After minutely describing the punishment at Westminster, he says, “on that day sevennight his sores upon his back, ear, nose, and face being not cured, he was whipt again at the pillory in Cheapside, and there had the remainder of his sentence executed upon him by cutting off the other ear, slitting the other side of the nose, and branding the other cheek.”

warmly patronised. Accordingly, an information in the Star Chamber was filed against the Earl of Bedford, the Earl of Clare, Sir Robert Cotton, John Selden, Esquire, Oliver St. John, Esquire, and several other patriots, for publishing a seditious writing, entitled "A Proposition for his Majesty's Service to bridle the Impertinency of Parliaments."

However, when this case was coming to a hearing, the Lord Keeper declared in the Star Chamber that the King, in respect of the great joy upon the birth of his son\*, had ordered the proceedings to be stopped, and the defendants to be discharged; yet to mark his dislike of such advice, commanded the writing to be burned as seditious and scandalous.<sup>t</sup>

But the scheme was in reality highly agreeable to the Court, and was steadily acted upon. Not only were tonnage and poundage still levied without authority of parliament, but the duty on goods imported was from time to time increased by the Council, and extended to new commodities. A new stamp duty was imposed upon cards. To accustom the people to obey the royal mandate, proclamations were issued from time to time respecting subjects connected with trade, the public health, and supposed public convenience, and these were enforced in the Star Chamber,—with the intention, that breaches of them should by-and-by be punished by indictment in the Courts of common law, and that, by degrees, a proclamation might in all respects be considered equivalent to an act of parliament.<sup>†</sup>

If persons, to escape from these oppressions, wished to seek refuge in another hemisphere, they were restrained from emigrating, by proclamation. Thus was the ship stopped that was to have carried to New England Cromwell, Pym, Hambden, and Hazelrig; and a violation of the law which, being compared with others, was considered so slight as not to be much regarded at the time, led to a revolution in the state.<sup>§</sup>

Not more respect was paid to private property than to public rights, as many shops and houses were pulled down, by order in Council, to make way for supposed improvements in the city of London, such compensation being made to the owners as an agent of Government chose to fix.<sup>||</sup>

The Lord Keeper was in a more special manner answerable for the

\* Charles II. born May 29, 1630.

† 3 St. Tr. 387.

‡ These proclamations prohibited the importation of certain commodities, regulated the mode of carrying on manufactures at home, fixed the prices of marketable goods, forbade the erection of houses in London, and enforced residence in the country. For disobedience of this last proclamation, 167 persons were prosecuted in one year. One Hillyard was fined 5000*l.* for selling saltpetre contrary to proclamation. — *Rushworth*, ii. 144.

§ Rush. ii. 409, 418.

|| Mr. Hume defends or palliates these illegal acts by observing that, as parliament did not meet, they were necessary, thereby making the unconstitutional disuse of parliaments the excuse for the assumption of legislative power by the Crown. — *Hume's Hist.* c. 52.

revival of monopolies. In direct violation of the statute law, he passed many patents under the Great Seal for the exclusive manufacture and vending of soap, leather, salt, and other commodities, without any pretence of invention or improvement,—merely in respect of the large sums that were given for the grants. A parliament was talked of to redress these grievances ; but, to drive the people to despair, a proclamation came out, countersigned by the Lord Keeper, wherein the King reciting the late abuses in parliament, declared that “he would consider it presumption for any one to prescribe to him any time for calling that assembly,”—so that a petition for a parliament would afterwards have been prosecuted as a seditious libel.

The attention of the public was, for a short time, diverted from these measures by the trial, before Lord Coventry, [A. D. 1631.] as Lord High Steward, and his Peers, of Lord Audley, Earl of Castlehaven, in Ireland, for assisting in committing a rape on his wife, and for other abominable offences. The custom was still kept up of previously taking the opinion of the Judges on any points like to arise in a criminal case, even though not of a political nature ; and on this occasion, for the guidance of the Lord High Steward, they told him, “that a Peer of parliament could not, if so inclined, waive his privilege, and be tried by Commoners ; that a Peer cannot challenge a Peer on his trial ; that a Peer was not entitled to counsel for matter of fact more than a Commoner ; that a wife may be a witness against her husband in case of personal violence ; and that in clergy-able offences a Peer cannot pray his privilege till he confesses or is found guilty.”

The trial took place, with great pomp and solemnity, in Westminster Hall. When the prisoner had been placed at the bar, the Lord High Steward, after alluding to the heavy charges against him, said, “His Majesty brings you this day to your trial, doing herein, like the mighty King of kings, in the 18th of Genesis, ver. 20, 21., who went down to see whether their sins were so grievous as the cry of them. ‘Because the cry of Sodom and Gomorrah is great, and their sins be grievous, I will go down (saith the Lord) and see whether they have done altogether according to the cry of it.’ And kings on earth can have no better pattern to follow than the King of heaven ; and therefore our Sovereign Lord the King, God’s Viceregent here on earth, hath commanded that you should be tried this day, and to that end hath caused these Peers to be assembled.” The trial then proceeded, on three indictments, for three several felonies at the same time. Both written depositions and *viva voce* evidence were adduced against him. Being found guilty, sentence was pronounced upon him very impressively by the Lord High Steward, and he was afterwards executed.\*

The King soon after went into Scotland, ostensibly to be crowned, but, in reality, to enforce the attempt to introduce Laud’s [A. D. 1633.] episcopacy into that country ; an attempt which for ever

alienated from him the hearts of his countrymen, and which may be considered the remote cause of all his misfortunes. Laud accompanying him, Coventry was left at the head of affairs in England, and no way relaxed the arbitrary system pursued by his master.

Charles returned from Scotland under the delusion that he had completely effected his object, and more thoroughly resolved to make himself absolute all over the island. The death of Archbishop Abbot enabled him to raise Laud to the primacy ; and Juxon, the new Bishop of London, (to the general disgust, and to the deep concern of all the enlightened friends of the Church,) was made Lord High Treasurer,— to preside in the seat of Lord Burleigh over the finances and councils of the nation.

Now the innovations to bring the rites of the Church of England as near as possible to those of Rome were pushed with fresh energy, and the Puritans were persecuted with redoubled zeal. Lord Coventry, neither in the Council nor in the Star Chamber, did any thing for the law, the constitution, or the public safety. He sometimes pretended to disapprove of the excesses of Laud, but in reality countenanced them. Henry Sherfield, an ancient barrister of Lincoln's Inn, being prosecuted in the Star Chamber for breaking a painted glass window in a church at Salisbury, the Lord Keeper at first gave it as his opinion that the defendant should only be reprimanded, make an acknowledgment before the Bishop, and repair the broken window ; but he easily allowed himself to be overruled by Laud, and pronounced the sentence that the defendant should further be fined 500*l.*, and be committed to the Fleet prison.\*

The sentence of the Star Chamber on the learned Prynne for his “*HISTRIOMASTIX*, or a Scourge for Stage Players,” was unanimous — “that he should be disbarred, — that he should be fined 10,000*l.*†, — that he should suffer perpetual imprisonment, “like monsters that are not fit to live among men, nor to see light,” — that he should stand in the pillory in Westminster and Cheapside, — that he should have his ears cropped,‡ — that his nose should be slit, — and that he should be branded on the forehead, — and that all who had any copies of his book should deliver them up to be burnt, under pain of the high displeasure of the Court.”§

Now came the two prosecutions in the Star Chamber of Ex-Lord

\* 3 St. Tr. 561.

† It was avowed that this fine was more than he was able to pay, so that Magna Charta was ostentatiously violated.

‡ It was pleasantly observed, that “he might conceal his loss of ears by a *periwig*, although in his ‘*Histriomastix*’ he had inveighed against that ornament.”

§ 3 St. Tr. 562. Hume cannot conceal his delight in recording the punishment of Prynne, and openly praises the good intention of the Court in thus trying to inspire better humour into the Puritans, but adds, with much *natvrté*, “whether pillories, fines, and prisons, were proper expedients for that purpose, may admit of some question.”

Keeper Williams\*, which Hume imputes to "the haughty Primate," and denounces as "the most iniquitous measure pursued by the Court during the time that the use of parliaments was suspended." But the sentences of fine, pillory, ear-cropping, and imprisonment for life in distant gaols, pronounced and executed upon Bastwick, the physician, and Burton, the divine, for reflecting upon the Bishops, might well bear a comparison.

In the case of Lilburn, the Lord Keeper took a very active part in supporting the jurisdiction of the Court. An information being exhibited against the defendant for a libel, he [A. D. 1637.] was called upon to answer interrogatories, that he might criminate himself,—and refusing to answer them, he was brought up before the Lord Keeper and the other dignitaries forming this awful tribunal, for his contempt.—*Lord Keeper.* "Why will you not answer?"—*Lilburn.* "My honourable Lord, I have answered fully before Mr. Attorney General to all things that belong to me to answer unto."—*Lord Keeper.* "But why do you refuse to take the Star Chamber oath?"—*Lilburn.* "Most noble Lord, I refused on this ground, because that when I was examined, although I had fully answered all things that belonged to me to answer unto, and had cleared myself of the thing for which I am imprisoned, yet that would not give content, but other things were put unto me concerning other men, to ensnare me and get further matter against me. And withal I perceived the oath to be an oath of inquiry, and for the lawfulness of which oath I have no warrant."—*Lord Keeper.* "Well, come, submit yourself unto the Court."—*Lilburn.* "Most noble Lords, with all willingness I submit my body unto your Honours' pleasure; but for any other submission, I am conscious to myself that I have done nothing that doth deserve a convention before this illustrious assembly, and therefore for me to submit, is to submit I know not wherefore." He was committed to the Fleet, and being brought up on a subsequent day still refused, in spite of all threats, to be sworn.—*Lord Keeper.* "Thou art a mad fellow, seeing things are thus, that thou wilt not take thine oath."—*Lilburn.* "My honourable Lord, I have declared unto you the real truth; but for the oath, it is an oath of inquiry, and of the same nature as the High Commission oath, which oath I know to be unlawful." The Lord Keeper then sentenced him to be fined 500*l.*, to be whipt through the streets, to be set in the pillory, and to be remanded to the Fleet till he conformed. When in the pillory he distributed some papers, said to be seditious, because they vindicated his innocence,—and for this new offence an order was made, on the suggestion of the Lord Keeper, to which Laud and all the other Judges assented, "that he should be laid alone—with irons on his hands and legs—in the wards of the Fleet, where the loosest and meanest sort of prisoners are used to be put."†

These were sentences of the Star Chamber, Coventry's own Court,

\* *Ante*, pp. 395, 396.

† 3 St. Tr. 1315.

and generally pronounced with his own lips. But he must likewise be held responsible for the greater iniquities of the High Commission, which, if he did not prompt, he might easily have restrained, either by his private influence, or judicially by writs of prohibition,— which he refused to issue.

He was further grievously to blame for vexations which he countenanced in extending the bounds of royal forests, and for the extortions practised under his superintendence in revising obsolete claims by the Crown to estates that had for generations been quietly enjoyed by the families now in possession of them.

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## CHAPTER LXII.

### CONCLUSION OF THE LIFE OF LORD KEEPER COVENTRY.

We have been relating the grievances of individuals which, though they excited much commiseration, might long have been borne without any general movement; but “SHIP MONEY” now threw the whole nation into a flame. The Lord Keeper, if not *artifex*, was *particeps criminis*. Noy, who had gained eminence in his profession by practising “in the sedition line,” having *ratted* and been made Attorney General, was eager to show his devotion to the Court,— and, after a long examination of musty records in the Tower, finding that in time of war the King had first pressed ships into his service, had then asked the sea-ports to equip ships for him, and had occasionally afterwards ordered the adjoining counties to contribute to the expence,— framed his famous scheme, which, if it had succeeded, would have effectually superseded parliaments. He disclosed his invention to the Lord Keeper, and to Strafford, now high in the ascendant,— and they both rapturously approved of it:— but foreseeing that its legality would come in question, and entertaining some misgivings respecting Sir Robert Heath, Chief Justice of the Common Pleas, they, as a prudent preliminary, removed him from his office, and substituted for him [JAN. 21, 1635.] Sir John Finch, one of the most unprincipled and reckless Judges who ever disgraced the English Bench. The writs under the Great Seal, directed to the Sheriffs of every county in England, fixing, by royal authority, the sum to be raised in each county, and requiring that it should be rateably assessed, were then concocted; but before they were issued their author suddenly died, and the chief burden of prosecuting the measure fell upon the Lord Keeper.

Not flinching from the task, he assembled all the Judges in the Exchequer Chamber previous to the Summer Circuit, and after addressing them on various other topics, came to the legality of ship

money. "I have but one thing more to give you in charge, and it is a thing of great weight and importance ; it concerneth the honour of his Majesty and the kingdom, and the safety of both. Christendom is full of war, and there is [JUNE 17, 1635.] nothing but rumours of war. No doubt it hath ever been accounted the greatest wisdom for a nation to arm that they may not be enforced to fight, which is better than not to arm and to be sure to fight. Therefore his Majesty, in these doubtful times, hath not only commanded that all the land forces of the kingdom should be set in order and readiness, but to set to sea a royal fleet at his Majesty's great charge, but with the assistance of the maritime places of this kingdom. The causes, and occasions, and times of war, with the preparation and ordering of them, is proper to the King ; and dutiful obedience in such things does best become the subject. And yet his Majesty hath vouchsafed, even by his writ, to declare enough to satisfy all well-minded men, and to express the dearness of his princely heart in aiming at the general good of his kingdom. Upon advice with his Council, he hath resolved that he will forthwith send forth new writs for the preparation of a greater fleet next year, and that not only to the maritime towns, but to all the kingdom besides : for since that all the kingdom is interested, both in the honour, safety, and profit, it is just and reasonable that they should all put to their helping hands. Now that which his Majesty requireth from you and doth command is, that in your charges at the assizes, and in all places else, where opportunity is offered, you take an occasion to let the people know how careful and zealous his Majesty is to preserve his honour, and the honour of this kingdom, and the dominion of the sea ; and to secure both sea and land with a powerful fleet, that foreign nations may see that England is both ready and able to keep itself, and all its rights. And you are to let them know how just it is that his Majesty should require this for the common defence, and with what alacrity and cheerfulness they ought and are bound in duty to contribute to it ; that foreign nations may observe the power and readiness of this kingdom, which will make them slow to contend with us, either by sea or land ; — and that will be the best way to confirm unto us a sure peace."\*

The writs were issued, and were generally obeyed ; but many grumbled, — some openly asserted that the imposition was unlawful, and it became of the utmost importance to ensure a favourable decision, should the question come before a court of law. The Lord Keeper therefore applied to the Judges, — dealing in the first instance in fraudulent generalities, — and obtained from them an unanimous resolution, that "as where the benefits redounded to the ports and maritime parts, the charge was, according to the precedent of former times, lawfully laid upon them ; so, by parity of reason, where the good and safety of the kingdom in general is concerned, the charge ought to be borne by the whole realm."

Having laid this foundation, he in the following Term put two specific questions to the Judges: 1. "Whether, in cases of danger to the good and safety of the kingdom, the King could not impose ship money for its defence and safeguard, and by law compel payment from those who refused?" 2. "Whether the King were not the sole Judge both of the danger, and when and how it was to be prevented?"

The twelve Judges having assembled in Serjeants' Inn Hall, they were told that their opinion was merely required for the private satisfaction of the royal conscience. Ten agreed to answer both questions, without qualification, in the affirmative. Two, Crooke and Hutton, dissented, but were induced to subscribe the opinion—upon the representation that, when the Judges were thus consulted, the judgment of the majority was that of the whole body.

To the dismay of Crooke and Hutton, and to the utter astonishment of them and of all their brethren, —as soon as the Lord Keeper was armed with this opinion, he assembled them all openly in the Star Chamber, and, with a full knowledge of the manner in which it had been obtained and signed, —after another elaborate panegyric on ship money, and heavy complaint of those who disloyally questioned the King's power to demand it, he thus proceeded: "When his Majesty heard of some refusals, though he had cause to be sensible of it, yet he was far from being transported with passion, but thought good to resort to the advice of you his Judges who are sworn to give him faithful and true counsel in that which pertaineth to the law; and this his Majesty, as well for the direction of his own course as for the satisfaction of his subjects, required you to deliver your opinion herein, to which you returned an answer under your hands." He then ordered the opinion to be read by the clerk, with the names of all the twelve as they were in order subscribed; which being done before a crowded audience, he continued: "My Lords, *this being the uniform resolution of all the Judges of England, with one voice and act under their hands*; I say, this being so resolved, as they do here express upon every man's particular studying the case, and upon a general conference among themselves, it is of very great authority, for the very lives and lands of the King's subjects are to be determined by these reverend Judges; much more a charge of this nature, which, God knows, cannot be burdensome to any, but is of singular use and consequence, and for the safety of the whole kingdom. The command from his Majesty his, that I should publish this your opinion in this place, and give order that it should be entered in this Court, in the High Court of Chancery, and in the Courts of King's Bench, Common Pleas, and Exchequer, for this is a thing not fit to be kept in a corner. And his further command is, that you the Judges do declare and publish this general resolution of all the Judges of England through all parts of the kingdom, that all men may take notice thereof, and that those his subjects which have been in an error may inform themselves and be reformed. You have great cause to declare it with joy, and you can hardly do it with

honour enough to the King, that in so high a point of his sovereignty he hath been pleased to descend and communicate with you his Judges ;—which sheweth that justice and sovereignty in his Majesty do kiss each other."

The reverend sages of the law all remained mute while this trick was played off upon them, those who were eagerly looking for promotion approving of it in their hearts, and the dissentients not being able to deny their handwriting, or publicly to enter into any explanation of their conduct.

One man in England remained unconcerned and undismayed by this supposed unanimous opinion of the twelve Judges, and that was JOHN HAMPDEN! He refused to pay the twenty shillings assessed upon him in respect of his estate in Buckinghamshire, and being sued for the amount, he, in due form, denied his liability. The case, on account of its importance, was adjourned into the Exchequer Chamber, before all the Judges, and was there argued many days. Lord Chancellor Ellesmere, on a similar occasion, was present in the Exchequer Chamber, and pronounced judgment\* ; but Lord Keeper Coventry does not seem to have publicly interfered with the decision of this case, though he was, no doubt, very active in privately reminding the Judges of the opinion they had given. To the immortal honour of Crooke and Hutton, notwithstanding the manner in which they had been entrapped, and notwithstanding all the attempts now made to work upon their fears and hopes, they delivered a clear and decided opinion upon the merits,— that the tax was unauthorised by the common law, and was forbidden by statute. Three other Judges, Davenport, Bramston, and Denham, without denying the King's right, voted for the defendant on certain points of form. But there being a majority, with Lord Chief Justice Finch at their head, who held that the power to impose this tax belonged to the Crown at common law, and that, even if there were statutes to abolish it, these statutes were not binding on the King,— judgment was given *quod defendens oneretur*, and process of execution issued to levy the twenty shillings.

Coventry and Strafford were short-sighted enough to rejoice in the victory they had won, thinking arbitrary government was firmly established. "Since it is lawful," [JUNE 12, 1638.] said they, "for the King to impose a tax towards the equipment of the navy, it must be equally so for the levy of an army ; and the same reason which authorises him to levy an army to resist, will authorise him to carry that army abroad, that he may prevent invasion. Moreover, what is law in England, is law also in Scotland and Ireland. This decision of the Judges will, therefore, make the King absolute at home and formidable abroad."† But "it is notoriously known that the pressure was borne with more cheerfulness before the judgment for the King than ever it was after ; men before pleasing themselves

\* Case of Postnati, *ante*, p. 201.

† Strafford papers, ii. 61.

with doing somewhat for the King's service, as a testimony of their affection, which they were not bound to do ; many really believing the necessity, and therefore thinking the burden reasonable ; others, observing that the advantage to the King was of importance, when the damage to them was not considerable ; and all assuring themselves that, when they should be weary or unwilling to continue the payment, they might resort to the law for relief, and find it. But when they heard this demanded in a court of law as a right, and found it, by sworn Judges of the law, adjudged so, upon such grounds and reasons as every stander-by was able to swear was not law, and so had lost the pleasure and delight of being kind and dutiful to the King ; and instead of giving were required to pay, and by a logic that left no man anything which he might call his own, they no more looked upon it as the case of one man, but the case of the kingdom, nor as an imposition laid on them by the King, but by the Judges, which they thought themselves bound in conscience to the public justice not to submit to. When they saw in a court of law reasons of state urged as elements of law ; Judges as sharp-sighted as Secretaries of State, and in the mysteries of state ; judgment of law grounded upon matter of fact of which there was neither inquiry nor proof ; and no reason given for the twenty shillings in question but what included the estates of all the standers-by, — they had no reason to hope that doctrine, or the promoters of it, would be contained within any bounds ; and it is no wonder that they, who had so little reason to be pleased with their own condition, were no less solicitous for, or apprehensive of, the inconveniences that might attend any alteration."\*

Notwithstanding the general discontent, there is great reason to believe that the scheme to establish absolute government [A. D. 1638.] on the ruins of free institutions would have succeeded in England, as it did about this time in France, had it not been for the troubles which now broke out in Scotland. Charles's violent attempt to introduce episcopacy into that country, though he had so far succeeded as to have the Archbishop of St. Andrew's for his Chancellor, and several other Prelates invested in the high offices of state, — produced the most sudden, peaceful, and complete revolution recorded in history. In the course of a few weeks, without a drop of blood being spilt, the King was virtually dethroned, and a new government was established, under the title of "The Tables," with the almost unanimous consent of the nobles, the gentry, and the commonalty, — having a well-disciplined army at its command, and recognised by all the civil functionaries in the kingdom. "The solemn League and Covenant" immediately followed.

The first effect produced in England by this movement was a ludicrous trial, at which the Lord Keeper presided with apparent gravity. When the news arrived at Whitehall, Archy, the King's Fool, who, by his office, had the privilege of jesting, even on his Master, happened un-

luckily to try his wit upon Laud, and called out to him, "*Who's fool now, my Lord?*" For this offence the Primate insisted that he should be prosecuted, on the maxim "*non licet ludere cum sacris;*" and, after a solemn hearing before the Council, Archy was sentenced "to have his fool's coat pulled over his head, and to be dismissed the King's service."<sup>\*</sup>

But more serious consequences were at hand. The King, notwithstanding the moderate counsels which were given to him by the Lord Keeper, and even by Laud himself, was resolved to make no concessions to the Scottish rebels, and to suppress the insurrection by military force. He directed summonses [MAY, 1639.] under the Great Seal to issue to all the nobility to meet him at York with trains suitable to their rank and possessions, and he marched to the north at the head of a feudal army, like another Edward I., to conquer Scotland.

But in England the national prejudice against the Scotch was over-powered by sympathy in their cause. The King's forces dwindled away as they approached the border, and were not in a condition to engage their opponents, under the veteran Leslie. At Berwick, Charles found it indispensably necessary to negotiate, and after agreeing to abolish episcopacy (under a secret protest that he would restore it on the first favourable opportunity), he was obliged, for want of money, to disband his troops, and he ingloriously returned to London.

Fresh writs, to raise ship money to the amount of 200,000L., were issued, and all sorts of expedients were resorted to for [SEPT. 1639.] the purpose of filling the Exchequer,—but in vain. The Covenanters, becoming more insolent, talked of invading England, so that Presbyterian, the only true form of church government, might be established all over the island,—and there were no means of raising an army to resist them. A new tax might be imposed by proclamation, but, in the present temper of the people, there was no chance of its being paid.

Under these circumstances, Coventry, and the whole Council, including even Archbishop Laud, and Juxon, the Lord Treasurer, recommended that a parliament should be called—a calamity, they privately said, from which England had now been happily exempt for eleven years, and with which they had well hoped that the country would never more be visited. The King for some time resisted, looking for assistance from Strafford and the Irish; but, finding his ministers steady in their unanimous advice, he put to them this pertinent question: "If the new parliament should prove as untoward as some have lately been, will you then assist me in such extraordinary ways as in that extremity may be thought fit?" They all replied in the affirmative; [DEC. 5, 1639.] and the Lord Keeper was ordered to prepare a proclamation, and writs of summons for a parliament, to meet in the month of April fol-

\* Rush. ii. 470.

lowing,—the interval being allowed for the meeting of a parliament in Ireland, which, it was hoped, the Lord Deputy could manage at his pleasure, and would set a good example for England.

Although Coventry had concurred in the advice to call a parliament as an inevitable evil, he looked forward to it with the greatest apprehension. The fate of Lord Bacon twenty years before was ever present to his imagination; and although he might have the consciousness of being free from personal corruption, notwithstanding the charges against him on that score,—he knew well that a considerable share of the misgovernment while he held the Great Seal was imputed to him by the public, and that he was particularly obnoxious for the illegal patents of monopoly which he had sealed,—for the arbitrary proclamations which he had countersigned,—for the cruel sentences of the Star Chamber pronounced by him,—and for the active part he had taken in procuring the corrupt judgment in favour of ship money.

There can be little doubt that, had he survived, the storm which burst upon his successor would have overwhelmed him, and that if he had escaped the scaffold, he would have been driven into exile.

But, while in possession of his high office and of the great fortune which he had amassed,—without any judicial exposure of his misdeeds, or temporal retribution for them, he was snatched away from impending misfortunes. On the 13th of January, 1640, he suddenly died at his residence, Durham House, in the Strand, in the 60th year of his age. Upon his death-bed he sent this last request to the King,—"that his Majesty would take all distastes from the parliament summoned against next April with patience, and suffer it to sit without an unkind dissolution."\*

The only contemporary writer who bestows upon him any thing like unqualified praise, is Lloyd, the author of "The State Worthies,"—who even lauds his love of constitutional government—saying, "of all those counsels which did disserve his Majesty he was an earnest dissuader, and did much to disaffect those sticklers who laboured to make the prerogative rather tall than great, as knowing such men loved the King better than Charles Stuart; so that, although he was a courtier, and had had for his master a passion most intense, yet had he always a passion reserved for the public welfare, an argument of a free, noble, and right-principled mind." But Whitelock says, "he was of no transcendent parts or fame :" and Sir Anthony Weldon, that "if his actions had been scanned by a parliament, he had been found as foul a man as ever lived." L'Estrange is more impartial; "His train and suit of followers was disposed agreeably to show both envy and contempt; not like that of Viscount St. Alban's, or the Bishop of Lincoln whom he succeeded, ambitious and vain; his port was state, theirs ostentation. They were indeed the more knowing men, but their learning was extravagant to their office; of what concerned his

\* Echard, p. 476.

place he knew enough, and, which is the main, acted according to his knowledge." Fuller observes, with happy ambiguity, "It is hard to say whether his honourable life or seasonable death was the greater favour which God bestowed upon him." His most valuable eulogium is Clarendon: "He was a man of wonderful gravity and wisdom, and understood not only the whole science and mystery of the law at least equally with any man who had ever sate in that place, but had a clear conception of the whole policy of the government both of church and state, which, by the unskilfulness of some well-meaning men, jostled each other too much. He knew the temper, disposition, and genius of the kingdom most exactly; saw their spirits grow every day more steady, inquisitive, and impatient, and therefore naturally abhorred all innovations, which he foresaw would produce ruinous effects; yet many, who stood at a distance, thought he was not active and stout enough in opposing those innovations. For though by his place he presided in all public councils, and was most sharp-sighted in the consequence of things, yet he was seldom known to speak in matters of state, which he well knew were for the most part concluded before they were brought to the public agitation; never in foreign affairs, which the vigour of his judgment could well have comprehended; nor indeed freely in any thing, but what immediately and plainly concerned the justice of the kingdom; and in that, as much as he could, he procured references to the Judges. Though in his nature he had not only a firm gravity, but a severity and even some morosity, yet it was so sharply tempered, and his courtesy and affability towards all men so transcendent and so much without affectation, that it marvellously recommended him to all men of all degrees, and he was looked upon as an excellent courtier without receding from the native simplicity of his own manners. He had, in the plain way of speaking and delivery without much ornament of elocution, a strange power of making himself believed (the only justifiable design of elocution\*), so that though he used very frankly to deny, and would never suffer any man to depart from him with an opinion that he was inclined to gratify when in truth he was not, holding that disimulation to be the worst of lying, yet the manner of it was so gentle and obliging, and his condescension such, to inform the persons whom he could not satisfy, that few departed from him with ill will and ill wishes. But then this happy temper and these good faculties rather preserved him from having many enemies and supplied him with some well-wishers, than furnished him with any fast and unshaken friends, who are always procured in Courts by more ardour and more vehement professions and applications than he would suffer himself to be entangled with. So that he was a man rather exceedingly liked than passionately loved; insomuch that it never appeared that he had any one friend in the Court of quality enough to prevent or

\* This is like the well-known observation, that "speech is given to man to enable him to conceal his thoughts."

divert any disadvantage he might be exposed to. And therefore it is no wonder, nor to be imputed to him, that he retired within himself as much as he could, and stood upon his defence without making desperate sallies against growing mischiefs, which he knew well he had no power to hinder, and which might probably begin in his own ruin. To conclude, his security consisted very much in his having but little credit with the King; and he died in a season most opportune, in which a wise man would have prayed to have finished his course, and which in truth crowned his other signal prosperity in the world." But under this blaze of eager commendation, it is easy to discover the features of a character wary, selfish, unprincipled, reckless, plausible, of refined hypocrisy, desirous of preserving the decencies of life, but sincerely anxious about nothing beyond his own ease and advantage,—which by his sagacity and adaptation to the times he cultivated so successfully, that he continued comfortably till death in an office, the tenure of which was so precarious, that no man died in it for many years before or after him.

As a politician he must ever be held mainly responsible for all the troubles arising from the collision between prerogative and law which he brought about. For a time he was checked by Montagu, who had been Chief Justice of the King's Bench, and was afterwards Lord Treasurer and President of the Council; but during nearly the greatest portion of the sixteen years he held the Great Seal, he was the only adviser of the government on legal and constitutional questions; and if he did not originate, he is nearly equally culpable for not having strenuously opposed the many fatal measures brought forward during the interval of parliaments, and for having abetted the scheme of subverting the ancient liberties of his country. Lord Clarendon represents that Coventry gave good advice in the Cabinet; and "perplexed the designs and councils of the Court with inconvenient objections in law." But I look to his language in public, and to his acts,—which we authentically know, and which would only acquire a deeper hue of atrocity if they were in opposition to his strong conviction and earnest remonstrances.

He was named in a commission which he drew, and to which he affixed the Great Seal, "to concert the means of levying money by impositions or otherwise—form and circumstance to be dispensed with, rather than the substance be lost or hazarded." In the Star Chamber, "although the Archbishop of Canterbury was higher in rank, and all the Councillors and Judges who were summoned to attend had an equal voice, yet the Lord Keeper was specially appointed by his patent to hear, examine, and determine all causes, matters, and suits in that Court;" and he was in reality the President. He is answerable, therefore, for those sentences of frightful and unprecedented cruelty which brought proverbial odium upon that tribunal, and within a year after his death led to its abolition, amidst the universal execrations of the people.

I ought not, however, to omit a story thus told to his credit by Sir

Anthony Welden, which, however improbable it may be, I have no means of contradicting ; "Buckingham is grown now so exorbitant, he aspires to get higher titles both in honour and place as Prince of Tipperary and Lord High Constable of England, who herein w<sup>o</sup>ught after Leicester's ambitious example ; but he is crossed too with Coventry, now Lord Keeper ; and, no doubt, on those just grounds his predecessor (Hatton) did.\* But Buckingham's ambition could not be so bounded ; for, upon the opposing it by Coventry, he peremptorily thus accosted him, saying : 'Who made you, Coventry, Lord Keeper?' He replied : 'The King.' Buckingham sur-replied : 'It's false, 'twas I did make you ; and you shall know that I who made you can and will unmake you !' Coventry thus answered him : 'Did I conceive I held my place by your favour, I would presently unmake myself, by rendering the Seal to his Majesty.' Thus Buckingham, in a scorn and fury, flung from him, saying : 'You shall not keep it long : and surely, had not Felton prevented him, he had made good his word."

As an Equity Judge, he seems to have given entire satisfaction. He certainly must have been familiarly acquainted with the law of England, and with the doctrines and practice of the Court of Chancery. Yet it is surprising how little progress equity, as a science, made under him. No decision of his, of much value, is recorded ; and no great principle or rule of the system can be traced to him. Several writers unaccountably state that few of his decrees were reversed, "because he made the parties come to a compromise and had an allegation on the face of his decrees that they were pronounced by consent."† He took care that none of his decrees should be brought before a Court of Appeal by preventing parliament from ever assembling.

He deserves great credit for "Ordinancies made by the Lord Keeper Coventry (with the advice and assistance of Sir Julius Cæsar, Master of the Rolls) for the redresse of sundry errors, defaults and abuses in the High Courte of Chauncerye." I give No. 1. as a specimen, which shows the evil of prolixity then prevailing, and which will prevail, in spite of all efforts to repress it, — while the remuneration of

\* *Ante*, p. 144.

† *Lloyd. Fuller.* From the following passage in "Madagascar," a poem by Sir William Davenant, written about this time, it appears that the reconciliation-system was very much acted upon by Judges : and this accounts for the security with which they could then retain the *épices* with which they were presented on both sides : —

"These when I saw, my hopes could not abstain  
To think it likely I might twirl a chain  
On a judicial bench ; learn to demur,  
And sleep out trials in a gown of fur ;  
Then reconcile the rich for gold-fring'd [lin'd] gloves,  
The poor for God's sake, or for sugar-loaves."

I myself, when Attorney General, received *tea* from the East India Company and *sugar-loaves* from the Corporation of Kingston-on-Hull ; but I was a party to reforms which took away all these *sweets* from the office.

lawyers is regulated by the length of the written proceedings. “ 1. That bills, answers, replication, and rejoinders, be not stuffed with repetitions of deeds or writings, *in hæc verba*, but the effect and substance of so much of them only as is pertinent and material be set down, and that in brief and effectual terms. That long and needless traverses of points not traversable nor material, causeless recitals, tautologies and multiplication of words, and all other impertinences, occasioning needless perplexity, be avoided, and the ancient brevity and succinctness in bills and other pleadings restored. And upon any default herein, the party and counsel under whose hand it passeth shall pay the charge of the copy, and be further punished as the case shall merit.”\*

To these Orders the authorship of Coventry is confined. With such a predecessor as Bacon, and such a contemporary as Hyde, he seems to have had an utter contempt for literature and literary men, and to have lived almost entirely with lawyers. I find no further account of his domestic habits, and no personal anecdotes respecting him. One attempt which he made at a jest has come down to us. When Prynne, Bastwick, and Butter were prosecuted in the Star Chamber for libelling the Bishops, they objected that the Bishops ought not to sit as their Judges; whereupon smartly answered my Lord Keeper, “By that plea you can never be tried, for you have libelled all the magistrates in the land.”\*

He died the richest man that had yet held the Great Seal. Weldon says, “Coventry, so generally reputed an honest man, got such an estate by bribery and injustice, that he is said to have left a family worth a million,—which may commend his wisdom, but not his honesty.” But the anonymous biographer I have before quoted, although he allows that Coventry’s enormous wealth was a ground of considerable “*murmuration*” against his integrity in his own time, more good-naturedly, and perhaps more reasonably, says, “The vague objection vulgarly inferred that the amassing of his wealth could not well be done in justice, might be answered to the full in this, that his patrimony considered, and the gainfulness of the places he passed through, together with the great fortunes of his own and his son’s intermarriages, all concurring and falling into a frugal family,—might soon wipe away all imputations of the most malignant, and persuade even detraction itself to suffer him to rest in peace, and, as we may charitably believe, in glory, as his posterity surviving remains in his house and fortunes.”†

He was buried in the church of Crome d’Abitot, where a suitable monument, recording his age, family, and offices, was erected to his memory.

He was twice married; first, to Sarah, daughter of Edward Sebright, Esq., of Besford, in the county of Worcester, by whom he had a daughter and a son, who succeeded to his title and estates; and, 2dly,

\* Lloyd.

† Sloane M.S. Brit. Mus.

to Elizabeth, daughter of John Aldersey, Esq., of Spenstow, in the county of Chester, by whom he had several sons and daughters. His grandson, Thomas, the fifth Baron, his last male descendant, was advanced in the peerage by King William to be Earl of Coventry and Viscount Deerhurst, with a special limitation on failure of his own issue to that of Walter, the third son of the Judge, and brother of the Lord Keeper. This remainder came into operation in the year 1719, by the death of the fourth Earl without issue, and under it the honours of the family are now enjoyed.\*

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### CHAPTER LXIII.

#### LIFE OF LORD KEEPER FINCH FROM HIS BIRTH TILL THE MEETING OF THE LONG PARLIAMENT.

We now come to one of the worst characters in English history. It is rather fortunate for his memory that he has not had his full share of notoriety with posterity. He was universally execrated in his own times, and ought now to be placed in the same category with Jeffreys and Scroggs. He raised himself to eminence in bad times by assisting to upset law and liberty, and when on the bench he prostituted, in the most shameless manner, his judicial duties for his private ends. It is some consolation to think that, if he did not meet the fate he deserved, he did escape unpunished.

Although, previous to the death of Lord Keeper Coventry, it had been resolved to submit to the necessity of once more calling a parliament, the King and his advisers were by no means fully aware of the state of the public mind, or of the difficulties which surrounded them. Instead of making concessions, and trying to gain over opponents, they were resolved still to stretch the prerogative, and if they could not obtain a supply of money by dictating to the House of Commons, to throw aside all profession of respect for the constitution, and to govern by open force. The most violent and unscrupulous supporter of arbitrary power that could be found in the profession of the law was therefore to be chosen as Lord Keeper, and there was no hesitation in fixing on Sir John Finch, Lord Chief Justice of the Court of Common Pleas, although he was, in reality, "a man exceedingly obnoxious to the people upon the business of ship money, and not of reputation and authority enough to advance the King's service."†

He disgraced a family of considerable antiquity, which, in the seventeenth century, rose to great distinction by producing several

\* *Grandeur of the Law*, p. 49.

† *Clarendon*.

very eminent lawyers. They were said to be descended from Sir Henry Fitzherbert, Chamberlain to King Henry I., and in the time of Edward I. to have assumed their present surname from the acquisition of the manor of *Finch's*, in Kent. Their possessions were greatly enlarged by the marriage of Sir Thomas Finch with the heiress of Sir Thomas Moyle, Chancellor of the Court of Augmentations in the reign of Henry VIII. The eldest son of this marriage was Sir Moyle Finch, the ancestor of the Earls of Winchelsea and Nottingham. The second son, Sir Henry Finch, from whom sprang the subject of this memoir, was twice representative in parliament for the city of Canterbury in the reign of Elizabeth, and the first great lawyer of the family. He was autumn reader of Gray's Inn in 1603, took the coif in 1614, and was made King's Serjeant in 1616. He wrote the treatise called "Finch's Law," which, till the publication of Blackstone's Commentaries, was the great elementary text book for law studies. From his preface, he seems to have had himself a very high opinion of his own performance, and to have thought it of infinitely greater importance than the *Novum Organum*: "Inter innumeros tam augustæ disciplinæ alumnos, surrexit adhuc nemo, qui in eo elaboravit ut rerum præstantiam methodi præstantia consequatur. Aut ego vehementer fallor, aut superavi rei vix credendæ difficultatem maximam; syrtesque et scopulos, Scyllam et Charybdis præternavigavi."

John, his son, whom we have now to take in hand, was born on the 17th of September, 1584, and was of a very different character, being, from his early years, noted for idleness, though he showed a talent for turning the industry of other boys to his own advantage.

He was entered of Gray's Inn, and there professed to study the law, but instead of reading his father's black-letter treatise, or attending "moots and readings," he spent his time in dicing and roistering. When called to the bar, he had little acquired learning of any sort,—no clients, and many debts. He saw that he had no chance to get forward in the regular routine of his profession, and that he was in considerable danger of being sent to prison by his creditors; but his parts were lively, his manners were agreeable, he had powerful friends at Court, and he determined to make his fortune by politics. He avoided the degree of the coif, as he knew he could make no figure in the Court of Common Pleas, among the drowsy, long-winded Serjeants, but he contrived to be employed occasionally, in libel cases, in the Star Chamber. What he looked forward to with most eagerness was the meeting of a parliament; a chance which an aspiring lawyer, in those days, might for years expect in vain. "Having led a free life in a restrained fortune, and having set up upon the stock of a good wit and natural parts, without the superstructure of much knowledge in the profession by which he was to grow, he was willing to use those weapons in which he had most skill."\*

He was disappointed in not being returned to Charles's first parliament, but he took his seat as a burgess in that which met in February, 1628. He was one of the lawyers then accused of "taking retainers on both sides," and "of waiting to see which way the cat jumped." The popular party had been gaining strength every new parliament since the middle of the reign of Elizabeth, and now had a complete ascendancy in the House of Commons, but they had no preferment to bestow, and John Finch would have been much better pleased with the appointment of Attorney to the Court of Wards than with the reputation of a flaming patriot. An expectation prevailed, which was not disappointed,—that some of the most formidable leaders, who gave least open offence to the Court, would be offered employment.

Under the pretence of great moderation, the new member contrived to get himself appointed Chairman of the Committee, [A. D. 1626.] to whom was referred the very important question, "whether Sir Edward Coke, late Chief Justice of the King's Bench, having been appointed, against his will, sheriff of Buckinghamshire before the general election, was disqualified to sit in the House of Commons for another county?" The Committee very much deferred to Finch as a gentleman of the long robe, who, among *lay gents*, could talk very glibly of law, and left it to him draw up the report, "wherein many cases were cited, *pro et contra*, as to the nature of a High Sheriff for one county being elected knight of the shire for another; on all which cases, he said, the Committee would give no opinion, but desired that a search might be made amongst the records for more precedents of the like nature."\* A dissolution took place before the point was decided. In the mean time Coke was not allowed to sit, and the Court was relieved from his invectives, which proved so formidable in the next parliament, when the "Petition of Right" was passed; but Finch, to show his impartiality, the day before the dissolution, moved a resolution, which was carried, "that Sir Edward Coke standing *de facto* returned a member of that House, should have privilege against a suit in Chancery commenced against him by the Lady Clare."

It must have required considerable ingenuity to mystify so clear a point as that though a Sheriff could not return himself as member for his own county, the Crown could not, at pleasure, disqualify him for being returned for another county, or for a borough, over which he had no official control; but Finch had the good luck, from his conduct of this case, to establish the reputation of a great constitutional lawyer, to be courted, if not confided in, by both parties.

In consequence of this, at the meeting of Charles's third parliament in March, 1628, he was actually elected Speaker of the House of Commons. He had now *his foot in the stirrup*, and he resolved to push forward, appalled by no obstacle. Though elected by the voice

of the popular party, he instantaneously deserted them and made himself the mere tool of the Court. His conduct as Speaker might have been anticipated from the slavish and fulsome language he held as soon as his formal disqualifying of himself had been overruled, and his appointment had been confirmed by the King : “ It is now no longer good time nor good manners to dispute with my Lord the King ; but with all joy and alacrity of heart, humbly and thankfully to meet so great a favour from the best of masters and the best of men. Therefore, first, I lift up my heart to him that sits on the throne of Heaven, *per quem Principes imperant et potentes decernunt justitiam*, humbly begging at his hands that made the tongue to give me speech, and that framed the heart of man to give me understanding ; for I am but as clay in the hands of the potter, and he will mould me for honour or dishonour, as best seems good unto him. Next I bow my knees unto your most excellent Majesty, in all humble and hearty acknowledgement of this and many other your great and gracious favours. The truth of my own heart, full of zeal and duty to your Majesty and the public as any man’s, quits me from all fear of running into wilful and pregnant errors ; and your Majesty’s great goodness, of which I have been so large a partaker, gives me strong assurance that having been by your gracious beams drawn up from earth and obscurity, you will so uphold me by a benign and gracious interpretation of all my words and actions, that I fall not down again like a crude and imperfect vapour, but consume the remainder of my days in zeal for your Majesty’s service. This great and glorious assembly, made perfect by your royal presence, like a curious perspective, the more I behold it with the more joy and comfort I find a lively representation of that true happiness which, under your Majesty’s gracious government, we all at this time enjoy. A better tongue were fitter to express it, but a rich stone retains its value though ill set. Here, in the fullness and height of your glory, like the sun in the exaltation of his orb, sits your Majesty, the sovereign monarch of this famous isle, in a throne made glorious by a long succession of many and great princes. A meditation worthy of our better thoughts that we live neither enthralled to the fury and rage of the giddy multitude nor yet to the distracted wills of many masters ; but under the command of a King the stay and strength of a people ; one, as Homer saith well of kings, —

ΠΟΛΛΑΙΟΥ ΑΥΤΑΞΙΟΣ ΕΛΛΑΣ,

not to be laid in common balance with other men ; for kings know no other tenure but God’s service, and their value it only tried at his beam.”

He proceeds to inculcate conformity to the established church, perverting a text of scripture in a manner I believe quite original : “ *Coge ingredi, ut impleatur domus mea*, was his command that made the great feast, and is the duty of magistrates.” Having dwelt long on the perfection of our church discipline as then regulated by the meek-

ness of Laud, he comes to the state, and tells the King, that, sitting, on his throne, on his right hand he had the reverend, religious, and learned prelates, lights fit to be set in golden candlesticks, and not made contemptible by parity or poverty ; on his left the nobles, full of courage and magnanimity, and before him the grave judges and sages of the law, like the twelve lions under Solomon's throne, and learning justice by his great example. Having taken a very extended and tiresome view of foreign politics, he exhorts all classes to unanimity under so good a Sovereign, who when he does not at once yield to any request from the two Houses, only says, "Le Roy s'avisera." He then expresses a wish that the saying *penitus toto divisos orbe Britannos*, may not be made good by internal divisions among ourselves, and concludes with an exhortation to the King himself to be firm and resolute against all his enemies : " He that sits on high will in his good time laugh them to scorn, and as that wise woman said to King David, *God will make to my Lord the King a sure house, if my Lord the King will fight the battles of Jehovah*, and let all England say, AMEN."\*

The Commons saw, when it was too late, the fatal error they had committed in choosing such a Speaker. While they were vindicating their privileges and asserting the liberties of the nation, he did everything in his power to embarrass them, and to frustrate their efforts. Although, in consequence of a message from the King to hasten the supply, they had agreed upon an address, which was the foundation of the "Petition of Right," and had given special directions to Mr. Speaker to press upon his Majesty the ancient right of parliaments to dispose of matters there debated in their own way, and that it was the ancient custom to consider of grievances before matters of supply,—he thus addressed the King : "Sir, you are the breath of our nostrils and the light of our eyes, and besides those many comforts, which under you and your royal progenitors in this frame of government this nation hath enjoyed, the very religion we profess hath taught us whose image you are."

He was constantly closeted with the King and Buckingham, telling them all that passed in the House, and plotting [JUNE 5, 1628.] with them how the schemes of the popular leaders might best be defeated. After one of these conferences he brought down a very indiscreet message from the King, intimating that the session would be speedily closed, and commanding the Commons "not to enter into or proceed with any new business which might spend time, or might lay any scandal or aspersion upon the state, government, or ministers thereof." This, as might have been foreseen, set the whole House in a flame.

Sir Robert Philips thus began the debate, "I perceive that towards God and towards man there is little hope. I consider mine own infirmities, and if ever my passions were wrought upon, it is now.

This message stirs me up ; especially when I remember with what moderation we have proceeded."

Sir John Eliot followed, and was alluding to certain supposed aspersions on the ministers of State, when the Speaker started up from the chair, and, apprehending that Sir John intended to fall upon the Duke of Buckingham, said, with tears which he knew how to bring into his eyes, "There is a command laid upon me to interrupt any that should go about to lay an aspersion on the ministers of state."

A scene of great confusion ensued, which was put an end to by the contrivance of resolving themselves into a grand committee of the whole House "on the state of the nation," and so getting Finch out of the chair. An order was at the same time made, "that the doors be locked, and that no one depart the House upon pain of being sent to the Tower. Finch, against whom this resolution was passed, before quitting the chair, earnestly begged that he might be allowed to be absent for half an hour on urgent private business, and the permission was magnanimously accorded to him.

A hot discussion now ensued, and a resolution was moved, "that the Duke of Buckingham was the cause of all the evils under which the state laboured." A member observed, that for the Speaker to desire to leave the House in such a manner was never heard of before, and he feared would be ominous. Finch, in truth, had posted off privately to the King, and now returned with this message, "that his Majesty commands, for the present, they adjourn the House till to-morrow morning, and that all committees cease in the mean time." An immediate adjournment took place in consequence.

The following morning he brought a soothing message from the King, which they, with the moderation and good sense which distinguished them, agreed to accept as satisfaction for the insult offered them ; but they firmly defeated his purpose, which was to divert them from proceeding with the "Petition of Right."

An evasive answer had been given by the King, which, under words of seeming consent, would have been construed into *Le Roy s'avisera* ; but they held a conference with the Lords, and both Houses being now equally suspicious of their Speakers, they put down in writing what the Lord Keeper should say on the subject to the King on the throne in the House of Lords, and they agreed "that he should stand in his place as a peer, and there deliver this request to his Majesty, and afterwards go to his place of state."

At last, Finch was obliged to come to the bar at the head of the Commons, and after the "Petition of Right" had been read at full length, he had the mortification to hear the words pronounced, *Soit fait come il est désiré*.

In spite of this, Charles insisted on levying tonnage and poundage [A. D. 1628.] without authority of parliament, although they were willing to pass a bill to authorise the levy, whereupon notice was given in the House, on the 25th of June, of a motion to be made next morning for a remonstrance to the King against this pro-

ceeding. Early next morning, Finch went to Court to take his orders, but there much perplexity existed, and they at last resolved on an instant prorogation. He had been detained so long by this consultation that he had kept the House above an hour waiting for him, and he did not make his appearance till past nine o'clock. He had scarcely been seated in the chair when,—while the member who had given the notice was beginning to read the proposed remonstrance,—three knocks were heard at the door, and the black rod entering, commanded them forthwith to attend his Majesty in the House of Lords. Finch hurried thither, and the King sitting on the throne, without his robes (so precipitate was the proceeding), ordered the prorogation.

During the second short and stormy session of this parliament, Finch continued to act as the puppet of the Court. The Commons, being very indignant at the manner in which the King tried to retract his assent to the "Petition of Right," were preparing a remonstrance—when the Speaker delivered a message from his Majesty ordering them to adjourn for a week, but they resolved that "it was not the office of the Speaker to deliver any such message unto them, for the adjournment of the House did properly belong to themselves."

Sir John Eliot then moved "the remonstrance;" but Finch refused to put the question from the chair, saying, that "he was commanded otherwise by the King." Selden asked him if he refused to act as Speaker. He replied "he had an express command from the King, so soon as he had delivered his message, to rise." Thereupon he rose and was leaving the chair, when Hollis, Valentine, and others, in spite of the efforts of certain Privy Councillors to free him, forced him back into the chair, saying, "he should sit there till it pleased them to rise." Finch, with abundance of tears, answered, "I will not say I will not, but I dare not. Command me not to my ruin,—in regard I have been your faithful servant, and would sacrifice my life for the good of my country; but I dare not sin against the express command of my Sovereign."

Selden urged, that he, being the servant of the House, could not refuse their command under any colour, and that his obstinacy would be a precedent to posterity if it should go unpunished; but "he still refused, with extremity of weeping and supplicatory orations."<sup>\*</sup>

This *fracas* terminated in the barring out of the Black Rod, the abrupt dissolution of Charles's third parliament, and his resolution thereafter, to govern by his absolute prerogative.<sup>†</sup>

For some years there was a lack of law promotion, and Finch did not receive the reward of his subserviency. He was not much of a favourite with Lord Keeper Coventry, who felt some jealousy of his courtly arts. He laid himself out for practice at the bar, but there was no confidence in his learning or integrity, and he could only hope for advancement from royal patronage.

\* 2 Parl. Hist. 491. 3 St. Tr. 235.

† Ante, p. 420.

Prynne had given mortal offence to the Court by his *Histriomastix*, [A. D. 1634.] inveighing bitterly against theatrical amusements, in which the Queen herself took a part. After he had been condemned in the Star Chamber for this publication as for a seditious libel, Finch thought it would be a good hit to show that the legal profession thoroughly disapproved of its principles,—by getting up a masque, to be acted by the four Inns of Court before their Majesties. Two benches were chosen by each Inn of Court to conduct the pageant. Finch represented Gray's Inn, and appears to have acted as “Master of the revels.” There were sixteen grand masques, “four gentlemen of each Inn of Court, most suitable for their persons, dancing and garb.” The members of the several Inns of Court were to intermingle, and each party of four was to be drawn in a chariot with six horses,—but great difficulty arose in settling the precedence of the chariots which respectively represented the dignity of each Inn of Court,—till that thorny point was decided by lot. The next controversy was, by what rule the four were to be placed in each chariot, which was resolved by the happy thought of having them made, like the Roman triumphal chariots, “of an oval form, so that there should be no precedence in them.”

The procession to Whitehall exceeded the glories of the installation of a Lord Chancellor. First marched the Marshall and his men; after him came one hundred gentlemen of the Inns of Court mounted on horseback, “in very rich clothes, scarce anything but gold and silver lace to be seen of them,” with a page and two lacqueys to each. Then came the “anti-masques,” intended for humour and jocularity,—the first anti-masque being of cripples and beggars on horseback, on the poorest jades that could be gotten, and ingeniously habited so as to ridicule the great officers of the law\*, and another to satirize such projectors as sought patents for useless schemes, as “the fish-call, or a looking-glass for fishes in the sea, very useful to fishermen to call all kinds of fish to their nets,”—“the new invented windmate, very profitable when common winds fail, for a more speedy passage of calmed ships and vessels on seas and rivers,”—“a moveable hydraulic which, being placed by a bedside, causeth sweet sleep to those who, either by hot fevers or otherwise, cannot take rest.”†

Then, to the admiration of all beholders, came the Grand Masques in their oval chariots, “their habits, doublets, trunk-hose, and caps of most rich cloth of tissue, and wrought as thick with silver spangles as they could be placed, large white silk-stockings up to their trunk-hose, and rich sprigs in their caps; themselves proper and beautiful young gentlemen. Starting from Ely House in Holborn, they marched

\* Finch himself had the chief hand in this, and from his bad success in his profession hitherto, probably took great delight in it.

† This was the contribution of Mr. Attorney General Noy. It appears from Rymer's *Fœdera*, vol. xix., that there were actually patents granted for these inventions, and while I was Attorney General, several as absurd were applied for. The “windmate” may have been an anticipation of the *steam engine*.

down Chancery Lane, through the Strand to the Palace, where they paraded round the tilt-yard, that the King and Queen "might have a double view of them." They alighted at Whitehall gate, when the Masque began and "was incomparably performed." Then followed a ball, in which Queen Henrietta danced with some of the Masquers, and (*gaudeo referens*), "did judge them as good dancers as ever she saw." The whole concluded with a banquet, after which all departed. "And thus," says with quaint solemnity the historian of this masque, imitating the well-known passage from "the Tempest," "this earthly pomp and glory, if not vanity, was soon past and gone as if it had never been."<sup>\*</sup>

Finch and three others were deputed to the office of returning thanks, in the name of the Four Inns of Court, to the King and Queen, "for their gracious acceptance of the tender of their service in the late masque;" and as it had given peculiar delight to Henrietta, who, since the death of Buckingham, had acquired great influence, it perhaps contributed to his elevation almost as much as his services in the chair of the House of Commons, for he was immediately appointed Attorney General to the Queen; and, notwithstanding his ignorance of law and want of experience, he was shortly after appointed a Puisne Judge of the Court of Common Pleas. [Oct. 14, 1634.]

What he wanted in law and professional experience, he supplied in zeal for the prerogative, and in severity to Puritans and to all persons obnoxious to the government who came before him.<sup>†</sup> In little more than a year the grand question of ship money arose. Heath, the Chief Justice, being considered a Judge not fit to be trusted, was removed, and Finch, well known to be ready to go all lengths, was appointed to preside in his place.

He did not disappoint expectation. By labouring his own puisnes and some of the other Judges, he was mainly instrumental in obtaining the extrajudicial opinion that the King might lawfully impose ship money in case of necessity, and that he was the sole Judge of the necessity for imposing it.

When Hampden's case came to be decided in the Exchequer Chamber, Lord Chief Justice Finch exceeded all the other Judges in the slavish doctrines which he laid down. "A parliament (said he, among many other things quite as strong,) is an honourable Court; and I confess it an excellent means of charging the subject, and defending the kingdom; but yet it is not the only means. Certainly there was a King before a parliament, for how else could there be an assembly of King, Lords, and Commons? And then what sovereignty was there in the kingdom but his? His power, then, was limited by the positive law; then it cannot be denied but originally the King had the sove-

\* Whitelock's *Memorials*, p. 21. The cost to the four Inns of Court was calculated to be above 20,000*l.*

† Clarendon thus characterises Noy and Finch at this time, "the one knowing nothing of, nor caring for the Court; the other knowing or caring for nothing else."

reignty of the whole kingdom, both by sea and land, with a power of charging the whole kingdom. Then the law that hath given that power, hath given means to the King to put it in execution. It is a very true rule that the law commands nothing to be done, but it permits the ways and means how it may be done, else the law should be imperfect, lame, and unjust. Therefore the law that hath given the interest and sovereignty of defending and governing the kingdom to the King, doth also give the King power to charge his subjects for the necessary defence and good thereof. And as the King is bound to defend, so the subjects are bound to obey, and to come out of their own country, if occasion be, and to provide horse and arms in foreign war; and such are compellable now to find guns, powder, and shot, instead of bows and arrows. Then if sea and land be but one entire kingdom, and the King lord of both, the subject is bound as well to the defence of the sea as of the land; and then all are bound to provide ships, men, ammunition, victuals, and necessaries for that defence. As to the observation of my brother Crooke, that we are compellable by our persons and arms, but not with any sum of money, that *bona corporis* are above *bona fortunæ*. If this power to command the persons of his subjects is in the King, then, I say, more reason that their estates should be in his power in this case of defence." He then goes on to examine the statutes and authorities cited on the other side, making very light of them. *Magna CHARTA* he dismisses with the observation, that to the enactment "nullum tallagium imponatur nisi per commune concilium," there is the implied exception, *unless for the public good*. To the statute 25 Ed. I. c. 5., and all subsequent statutes upon the subject, he gives the answer that "acts of parliament may take away flowers and ornaments of the Crown, but not the Crown itself. No act of parliament can bar a King of his regality, or his trust and power to defend his subjects; therefore, acts of parliament to take away his royal power in the defence of his kingdom are void. They are void if they profess to take away the power of the King to command the persons, goods, and money of his subjects: no acts of parliament make any difference. "The Petition of Right" he treats with great contempt,—on the ground that, from having been Speaker when it passed, he knew there was no intention thereby to alter the old law. With text writers, of course, he is very unceremonious. Fortescue, he says, is entitled to no weight, because the treatise "De Laudibus" was written during the wars of York and Lancaster, when the author was in exile, and wished to please the people, and to return to his own country. After getting rid of all the authorities in a similar manner, he arrives at the conclusion, "that the King has a clear right, in case of danger, to impose a tax for the defence of the realm;—that the expectancy of danger is sufficient ground for the King to charge his subjects;—that the King is the sole judge of the danger;—that the King's averment of danger is not traversible,—and therefore that the defendant was bound to pay the sum assessed upon him."

Lord Clarendon says — “Undoubtedly my Lord Finch’s speech in the Exchequer Chamber made ship money much more abhorred and formidable than all the commitments by the Council table, and all the distresses taken by the Sheriffs of England : the major part of men (besides the common unconcernedness in other men’s sufferings), looking upon those proceedings with a kind of applause to themselves, to see other men punished for not doing as they had done ; — which delight was quickly determined when they found their own interest, by the unnecessary logic of that argument, no less concluded than Mr. Hampden’s.

But this logic endeared him to the Court, and ensured him farther preferment as soon as any opportunity should occur. In the mean-while he strengthened his claim by his conduct in the Star Chamber, where, having been made a Privy Councillor, he now acted as a Judge. We may take, as an example, his proof that he would not be swayed by private considerations to spare an old acquaintance, when he proposed an aggravation to the punishment of Prynne, whom he had known well at the bar. The Court having agreed that, for a new libel which he had published along with Bastwick and Butter, “he should stand in the pillory, lose his ears, pay a fine of 5000l., and be perpetually imprisoned in a distant fortress,” the Chief Justice moved, by way of amendment, “that he should likewise be stigmatised in the cheeks with the two letters S. and L. for a Seditious Libeller,” — to which all the Lords agreed.\*

He likewise distinguished himself in pressing for severe punishment on Bishop Williams, when that Prelate was the second time brought before the Star Chamber on pretences more frivolous than the first, although he had then rather taken the part of the defendant, not aware that he was so odious to the government. Being now reproached for his inconsistency, he replied with candour, — “I was soundly chidden by his Majesty for my former vote ; and I will not destroy myself for any man’s sake.”†

At last, on the death of Lord Keeper Coventry, Finch’s ambition was fully gratified. That event having happened on the 13th of January, 1640, on the 17th the Great Seal was delivered to him as Lord Keeper, and on the 23d, the first day of Hilary term, he was installed with great pomp in the Court of Chancery, and was raised to the peerage by the title of Baron Finch of Fordwich.‡

This appointment caused great dismay at the time, as a proof of the spirit which still actuated the King’s councils, even after the difficulties in which he had been involved by his arbitrary government, and after he had found it absolutely necessary again to summon a parliament. Modern historians, even those who are impartial, pass over the promo-

\* 3 St. Tr. 725.

† Hacket’s Life of Williams.

‡ Crown Office Minutes’ Book, fol. 1. He had the extraordinary honour, when he was sworn, of having the book held for him by the Bishop of London, Lord Treasurer, and so had his successor, Littleton. On all other occasions of this sort the book is stated to have been held by the Master of the Rolls.

tion of Finch at this juncture without a censure, — and with Hume he is rather a favourite.

He held the Great Seal little more than three terms, and during this short space of time the proceedings in the Courts of justice were much interrupted by political disputes, so that we do not know much of him as an Equity Judge ; but we have an account of one of his early cases, showing that his legal and equitable principles corresponded, and that he acted in an enlarged sense on the doctrine that “ equity follows the law.” A bill was filed to carry into effect an order of the Lords of the Council, upon a matter over which they had no jurisdiction. The defendant demurred for want of equity, and the demurrer coming on to be argued, Finch decreed for the plaintiff, saying, “ that while he was Keeper, no man should be so saucy as to dispute these orders, and that the wisdom of the board should be always ground enough for him to make a decree in Chancery.”\*

When Easter term came round he was called away to preside in the House of Lords. Parliaments having now been intermitted above eleven years, the very forms of proceeding were almost forgotten, and none of the officers knew the duties they had to perform. The Lord Keeper was answerable for all, and much time was occupied in inquiries and preparations. The public looked forward with eager expectation to a redress of grievances, but the Court had resolved that the attention of both Houses should be confined to the granting of supplies.

There was a grand procession the first day of the Session, and the people, delighted once more to witness such a spectacle, were so good-humoured and grateful, that the less penetrating expected a happy result. The King being seated on his throne, and the Commons attending at the bar of the House of Lords, he merely said, “ that never King had a more great and weighty cause to call his people together, but that he would not trouble them with the particulars, which they would hear from the Lord Keeper.”

Finch began by celebrating the goodness of the King in calling a parliament, notwithstanding the memory of former discouragements, but strongly deprecated their interference with affairs of government. “ His Majesty’s kingly resolutions are seated in the ark of his sacred breast, and it were a presumption of too high a nature for any Uzziah, uncalled, to touch it.” He then warned them by the example of Phaeton, not to aim at that of which they were incapable. “ Let us beware how, with the son of Clymene, we aim not at the guiding of the chariot, as if that were the only testimony of fatherly affection, but let us ever remember that though the King sometimes lays by the beams and rays of Majesty, he never lays by Majesty itself.” After taking a view of the foreign relations of the country, which he justly represented as highly satisfactory, he says, “ But what availeth this, *si foris hostem non inveniat, si modo domi inveniat?*” He launches out into a bitter invective against the Scots, who had made a most un-

grateful return for all the King's affection and bounty. "For when his Majesty had most reason to expect a grateful return of loyalty and obedience from that nation, some men of Belial, some Zelia hath blown the trumpet there, and by their insolences and rebellious actions draw many after them, to the utter desertion of his Majesty's government. Following the wicked counsels of some Achitophels, they have seized on the trophies of honour, and invested themselves with regal power and authority." He draws a striking contrast between Scotland and Ireland, where all was loyalty and obedience, and the parliament had lately voted large subsidies to assist his Majesty in restoring tranquillity in this island. He desires the English parliament to follow so good an example, and, "for a while laying aside all other debates, to pass such and so many subsidies as should be thought fit and convenient for so great an occasion." To avoid all question about tonnage and poundage, he said his Majesty had caused a bill to be prepared to authorise the collection of the tax from the commencement of his reign. This was the only concession alluded to; but he assured them, that after the grant of such a supply as the urgency of the King's affairs instantly required, which he would accept as the pledge of their loving, happy, and dutiful affection to him, his person, and government, they should afterwards have an abundant opportunity for considering of such petitions as they should conceive for the good of the commonwealth.\*

But the Commons, instead of yielding to this request on the faith of this promise, immediately fell upon grievances, — ship money, — the levying of duties on merchandise without the authority of parliament, — the cruelties of the Star Chamber and High Commission Court, — and breach of the privilege of the House in prosecuting and punishing members for words spoken in the House. Above all, they took up with earnestness the conduct of the Lord Keeper Finch, when Speaker of the House of Commons, on the last day of the last parliament. Sir Harry Vane gave a circumstantial account, from notes taken at the time, of the whole transaction, and of the Speaker's expressions, "that he dared not put the question, that he was commanded not to put the question, and that they should not force him to his ruin." A motion was thereupon made and carried, that a select committee be appointed to prepare a representation to his Majesty of the violation of the liberties of this House that happened the last day of the last parliament, humbly beseeching his Majesty "that the like violation may not hereafter be brought in practice to his prejudice or theirs." And a resolution was carried, "that it is the opinion of this House, that the Speaker's refusing to put the question after a verbal command from his Majesty, signified to this House by the Speaker, to adjourn, and no adjournment made by this House, is a breach of the privileges of this House."

The Lord Keeper thought that all these mutinous dispositions might

be quelled by a proper display of vigour. Accordingly, on the 20th of April, both Houses were summoned to attend in the banqueting house at Whitehall, and there, in the King's presence, he read a lecture upon the necessity of giving supply precedence over grievances; but the Commons were obstinate, and on returning to their Chamber after a long debate, resolved to prefer grievances to supply. Charles then, without the Lord Keeper's advice or privity, took one of those rash steps which led to such fatal consequences in the dispute now commencing. He came suddenly into the House of Lords, and seating himself in his chair of state without his robes, he addressed the Peers, and solicited their good offices in prevailing on the Commons to grant an immediate supply. When he withdrew, the Lords, flattered by his appeal to them, immediately agreed, on the motion of the Lord Keeper, "that the supply should have precedence, and be resolved upon before any other matter whatsoever, and that there should be a conference desired with the Commons in order to dispose them thereto."

The Commons having agreed to the conference, it was managed on the part of the Lords by the Lord Keeper, who strongly urged the Commons to postpone the consideration of their supposed grievances, reminding them that "they had the word of a King, and not only so but of *a gentleman*,"\* for all they required respecting religion, property, and privilege. "Lastly, he told the Commons that the Lords had voted and declared as their opinion, that his Majesty's supply should have precedence and be resolved on before any other matter whatsoever; therefore he desired the House of Commons to go on with that first, as that which in the opinion of the House of Lords is held most necessary."†

As might easily have been foreseen, the Commons were highly incensed by these proceedings, and came to a resolution "that their Lordships voting, propounding, and declaring, concerning matter of supply before it was moved from this House, was a breach of privilege, and that a remonstrance should be sent to the Lords to this effect; and the Lords voted a counter-resolution, that their merely expressing an opinion on the order in which the subject of supply should be considered, was no breach of the privileges of the Commons."

Under the advice of Pym and Waller the Commons still insisted on [MAY 5, 1640.] proceeding with grievances. The King sent them two other messages to hasten the supply, and finding them inflexible,—by the rash and ruinous advice of the Lord Keeper, he suddenly made his appearance on the throne, and having praised the Lords and severely censured the Commons, abruptly dissolved the parliament, from which such national benefits had been expected. This measure is deeply deplored by Clarendon, who truly says that there never was a parliament in which Charles had so many true

\* One of the earliest instances of "*gentleman*" being used in this sense.

† 2 Parl. Hist. 563.

friends, and there can be no doubt that if he had evinced any sincere disposition to correct the errors of his government, an adequate supply would readily have been granted to him, the Scottish insurrection would have been suppressed, and he would soon have been relieved from all his difficulties. Again, had Strafford been at hand, the business would have been conducted with more dexterity, and there would have been a fair chance of success to arbitrary rule. But, that able minister being in Ireland, a country then as distant from us for practical purposes as America now is, Charles was left with such councillors as Finch and Laud, more inconsiderate and violent than himself, and all tended to a popular revolution. Bellasis and Sir John Hotham, who had opposed the Court in the Lower House, were immediately summoned before the Council, and refusing to answer the questions the Lord Keeper put to them respecting their conduct in parliament, were committed to prison. Crew, the chairman of the committee of religion, shared the same fate, because he would not deliver up the petitions and complaints which had been intrusted to him.

The Lord Keeper gave a fresh instance of his ignorance and folly, by publishing an opinion in which he induced some of the judges to join him, that the Convocation, after the dissolution of the parliament, was still entitled to sit and grant supplies from the clergy,—and by a novel commission under the Great Seal, he authorised them to frame an ecclesiastical code adapted to the exigency of the times. The more timid members of the Convocation were still much alarmed, but a majority agreed to seventeen new canons, and although they in various particulars affected the rights of the laity and were clearly illegal, they all received the royal assent, one of them being “that every clergyman, four times in the year, should instruct his parishioners in the Divine right of Kings” and the damnable sin of resistance.”\* These ecclesiastical enactments added greatly to the general excitement. “The vessel was already full, and this last drop made the waters of bitterness to overflow.”

Nothing so strikingly proves how universally the feeling of resentment against the government prevailed in the nation, as that it infected the camp, and unnerved the English soldier,—insomuch, that now occurred the only instance in our history of an English army flying from the field of battle. “The King saw plainly that both divers officers of his army, and even the private soldiers generally (which was a most remarkable inclination), would not fight against the Scots.”†

After the rout at Newburn, and the flight to Durham, Charles and his councillors were in a state of the greatest perplexity. Without funds, his troops must be immediately disbanded, and Leslie, with his covenanters, might march triumphant [JUNE, 1640.] to join the discontented in London.‡ The late unfortunate dissolution

\* Rush. i. 1205. Wilk. Con. iv. 553.

† Whitelocke.

‡ Another difficulty was then experienced (which we now meet by the annual

of the parliament was already deeply deplored, but to meet a new House of Commons seemed a measure not only humiliating, but hopeless. The Peers had been willing to grant a supply, and the King had parted amicably with them. Finch suggested that they might be summoned without the Commons, and treated as a national assembly,—pretending that there were various precedents for a great Council of the Peers so acting in cases of great national danger. The advice was relished, and he issued writs of summons under the Great Seal to all the Peers, requiring them to meet at York on the 25th of September to consult with the King *de arduis regni*.

Before the day arrived, petitions poured in from all quarters for the calling of a parliament, as the only remedy to save the nation from anarchy and ruin; and many Peers joining in these, Charles foresaw that this would be the first recommendation of the Great Council. He yielded to the torrent, which he despaired of being able to stem. But though it was announced that a parliament should be summoned, the Peers were allowed to assemble, and "the Grand Council" was constituted. In his address to them, the King, according to the information he had received from the Lord Keeper, stated, "that upon sudden invasions, where the dangers were near and instant, it had been the custom of his predecessors to assemble the Great Council of the Peers; and, by their advice and assistance, to give a timely remedy to such evils which could not admit a delay so long as must, of necessity, be allowed for the assembling of parliament." But Lord Clarendon says, "this assembly of the Peers was a new invention, not before heard of; or so old, that it had not been practised in England for some hundred of years;" and, in truth, since the time of Henry III., when the Commons became a constituent part of the legislature, there had been no instance of the Peers being summoned without them to deliberate on public affairs. As nothing was done at this Council, historians have been much puzzled to explain the motive for calling it; but there can be little doubt that when the writs for it issued, the intention was that it should take upon itself all the functions of parliament, and that it was by a *coup-d'état*, to supersede the House of Commons, which had been found so troublesome. The attempt created great alarm among the middling and lower orders of the people; and was regarded as another proof of a deep-laid scheme to crush public liberty.

Although Charles announced to the Great Council that he had already given orders to his Lord Keeper to issue [SEPT. 24, 1640.] writs for a parliament, the general conviction was,

Mutiny Act), that the Petition of Right having abolished martial law, there were no means of punishing military offences. Even Finch was obliged to acknowledge this, and he privately passed pardons under the Great Seal to officers who had found it necessary to execute a mutineer. Lord Conway said upon the occasion, that if any lawyer were so imprudent as to discover the secret to his soldiers, it would be necessary instantly to refute him, and to hang him by sentence of a court martial. — Rush. iii. 1199.

that this was the result of his altered purpose, and that the nation was to have been taxed by an ordinance of the House of Lords. To save appearances they held several meetings,—advised the negotiation with the Scots, which ended in the treaty of Ripon,—and sent a deputation to London, to assist in borrowing money for the support of the army. They then all quietly dispersed.

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## CHAPTER LXIV.

### CONCLUSION OF THE 'LIFE OF LORD KEEPER FINCH.'

ON the 3d of November began the most memorable parliament recorded in our annals. Instead of the usual grand procession, the King, attended by the Lord Keeper and a few of the great officers of state, came privately by water [A. D. 1640.] from Whitehall, and landed at the parliament stairs, near where Westminster Bridge now stands. The King, after a few general observations, in a very conciliatory and touching tone, said he had commanded his Lord Keeper to give a particular account of what had happened since the last dissolution.

Finch's address was very artful; his great object being to divert indignation from himself to the Scots. Having eulogised the bravery, and genius, and greatness of the natives of England, he boldly denied that they had ever been conquered either by Saxons, Danes, or Normans. "It were an easy task," he said, "to make it appear that they never changed the old established laws of England, nor ever brought in any new, so that you have the frame and constitution of a commonwealth, made glorious by antiquity; and, with states as with persons and families, certainly an uninterrupted pedigree doth give lustre." He then pointed out the extreme presumption of the Scots, in passing with an army the rivers Tweed and Tyne, seizing upon Newcastle, and levying contributions on Northumberland and Durham "to the prejudice of monarchy, and rendering less glorious this kingdom." Next came the indispensable necessity of instantly providing funds for supporting an army, by which the invasion might be opposed, the King's authority vindicated, and the honour of the country maintained. Aware of the ill construction that had been put upon the Council of the Peers at York, he pretended to say that it was after a custom which had been frequently used\*: "This was not done to prevent, but to prepare for a parliament. It was not to

\* Although Camden and Selden flourished about this time, it is certain that the general mass of men of education were by no means so well acquainted with the history and antiquities of the country as at the present day,—or the Lord Keeper durst not have ventured on such an assertion.

clash or interfere with this assembly, by acting or ordering any thing which belongeth to this high and supreme jurisdiction; but only to give their assistance for the present to render things more fit for this great assembly. They could never attempt, nor had the least thought to make, by any act or order, any thing tending to charge the subject.”\*

Nevertheless, there was a greater disposition to sympathize with the Scots than to raise an army for their destruction, as they declared their only object was to lay their grievances before their Sovereign. The elaborate denial of all bad intentions in calling the council of the Peers at York strengthened the previous suspicions on this subject, and the Commons only waited till their Speaker was chosen that they might proceed against the authors of their grievances,—of whom the Lord Keeper himself was considered one of the most guilty.

In a few days he had a specimen of the temper of the Commons, and a forewarning of his own fate,—in the impeachment, suddenly voted with closed doors, against the Earl of Strafford;—and, as the organ of the Peers, he was obliged to issue the order for the commitment of his colleague, and to direct that he should at once be carried off by the Serjeant-at-arms, without then being permitted to say a word in his own defence.†

It is said that Finch now gave out privately that he was willing to go over to the popular party, and to do every thing he could to assist them, and that he had actually made some impression on the most violent leaders, who hoped to have turned him into a useful tool; but that Lord Falkland, Hyde, and the more moderate reformers, put an end to the negotiation, thinking that he might, in his new-born zeal for liberty, suggest measures which would be dangerous to the monarchy.

The Lords seem to have originated no proceeding before Finch's fall, except an inquiry into the manner in which the studies and the repositories of Lord Warwick and Lord Brook had been searched at the conclusion of the last parliament within time of privilege; and upon this occasion he took the liberal side, although the acts complained of must have been done with his privity. Sir William Beecher, the clerk of the council, being brought to the bar, the Lord Keeper demanded of him “by what warrant he had searched and carried away the papers of the aforesaid Peers?” The witness having demurred to answer, on the ground “that he was the King's sworn servant, and that he must acquaint the King with the matter before he answered,” the Lord Keeper ordered him to show his warrant, and blamed him for naming the King in the business; and, he again refusing to give a direct answer till the King was made acquainted with it, the Lord Keeper told him that “the Lords did take him to be the chief actor of the fact, and were resolved to proceed against him as the principal.” Sir William was finally committed to the Fleet, but in two days after, on acknowledging his error, he

\* 2 Parl. Hist. 630.

† Ibid. 734

was released. At this time there certainly was a large majority of the Lords against the Court, and, though attached to the monarchy, eager for a correction of the abuses which had prevailed both in the church and the state. But as, according to the respective functions of the two Houses as finally settled in Floyd's case, they were to sit as Judges, the Commons being the accusers,—they properly remained quiet till charges should regularly be brought before them.

In the meanwhile, the Commons having liberated Prynne, Bastwick, and Burton, and procured the commitment of Strafford and Laud to the Tower, proceeded against Lord Keeper Finch as the person next most obnoxious to them. The chief grounds of complaint against him were his conduct as Speaker, in refusing to put the question; his oppressive perversion of the Forest Laws; his endeavours to incense the King against parliaments; and, above all, his conduct with respect to ship money, in obtaining the extrajudicial opinion of the Judges in his judgment against Hampden, and in declaring on his circuit that the right to ship money was so inherent in the Crown, that no act of parliament could take it away.

Bagshaw, the member for Southwark, referring to the Lord Keeper's recent honeyed words, said, "If these troublers of our Israel do go unpunished, it will never be better with us; for now, during parliament, like frozen snakes, their poison dries up; but let the parliament dissolve, and then their poison melts and scatters abroad, and doth more hurt than ever. What then must be done? Why, what the plaster cannot do, must be done with the saw:

Ense recidendum est, ne pars sincera trahatur.

I cannot better English it than in the words of a King: *Let them be cut off in their wickedness that have framed mischief as a law.*"

The formal motion for Finch's impeachment was brought forward by the virtuous, moderate, and loyal Lord Falkland, who said "this great delinquent pursued his hatred to the fountain of justice, by corrupting the streams of it—the laws,—and perverting and corrupting the Judges who administered it. He endeavoured to annihilate the ancient and notorious perambulations of particular forests, the better to prepare himself for annihilating the ancient and notorious perambulations of the whole kingdom, the metes and boundaries between the liberties of the subject and sovereign power, to bring all laws from his Majesty's court into his Majesty's breast. He gave our goods to the King, our lands to the deer, and our liberties to the sheriffs; so that there was no way in which we should not have been oppressed and destroyed if his power had been equal to his will. Being a sworn Judge of the law, he has not only given his judgment against law, but has been the solicitor to corrupt all the other Judges to concur with him in perverting it."\*

Some of the leading men, in consequence of the intrigue I have referred to, wished to screen him ; and, suggesting that they had already too much business on their hands, proposed to suspend the debate on ship money till there should be more leisure to discuss a subject of such importance.

Thereupon Hyde, still of the popular party, rose, and urged that delay would make future examination of no purpose ; and therefore proposed immediately that, while the House was sitting, a small committee might be appointed, who, dividing themselves into the number of two and two, might visit all the Judges, and ask them apart, in the name of the House, what messages the Lord Finch, when he was Chief Justice of the Court of Common Pleas, had brought to them from the King in the business of ship money, and whether he had not solicited them to give judgment for the King in that case ? This motion was generally approved of by the House, and carried without a division. A committee of eight persons was accordingly appointed forthwith to meet the Judges, who were then expected to be found at their Chambers in Serjeants' Inn.

Justice Crooke, and some other members of the learned body, being surprised with the questions, and pressed earnestly to make clear and categorical answers, ingenuously acknowledged that the Chief Justice Finch, whilst the matter was pending, earnestly solicited them to give their judgment for the King, and often used his Majesty's name to them, as if he expected that compliance from them.

Hyde, the chairman of the committee, having presented a report stating these particulars, the House was forthwith about to vote the impeachment, when a member rose, and said that the Lord Keeper, to whom he had the honour of being nearly related, having heard that certain charges were brought against him in the Commons' House of Parliament, entertaining a consciousness of his own innocence, and feeling the highest respect for the House, of which he had once been Speaker, desired, ere they proceeded farther, to be heard before them in his own vindication.

Leave was immediately given that he should be heard, and it was requested that he should attend at the sitting of the House at eight o'clock the following morning. This message being carried to him while he was on the woolsack in the other House, he moved that he should have leave to go to the House of Commons to clear himself of certain charges brought against him there,—to which the Lords unanimously consented.

The following day was looked forward to with great expectation. Finch's accusers intended that, as soon as he should be heard, the vote for impeachment should be carried,—that the impeachment should instantly be sent up to the Lords,—and that they should demand his immediate commitment to the Tower,—so that he might be safe with Strafford and Laud, and might not have an opportunity of following the example of Secretary Windebank, who, on a charge being originated against him, had fled to the Continent. His friends, on the con-

trary, were sanguine in the expectation that he might make a favourable impression on the House, so that, with the secret countenance he expected from some of the leaders, the impeachment might be negatived ; — and, at any rate, they were resolved that he should have “a run for it.”

Next morning, the House having met at eight, as soon as prayers were over, a chair was set for the Lord Keeper to [DEC. 21, 1640.] make use of if he pleased, and a stool to lay the purse upon, a little within the bar, on the left hand, as you enter. He presented himself in his robes, carrying the purse in his own hand ; and having bowed to the Speaker, he laid it on the chair. He would not sit down himself, nor put on his hat, though he was moved to do it by the Speaker, but spoke all the while bare-headed and standing, the Serjeant-at-arms attending the House continuing by him with the mace on his shoulder.

Lord Finch appears to have gained more applause on this occasion than he had ever before done. Whitelock, who says, “it was a sad sight to see a person of his greatness, parts, and favour, to appear in such a posture before such an assembly to plead for his life and fortune,” — declares that, “the apology was elegant and ingenious, and delivered with an excellent grace and gesture, and that many were exceedingly taken with his eloquence and carriage,” — and Rigby, the Member for Wigan, who spoke first after he had withdrawn, thus began, “Mr. Speaker, though my judgment prompts me to sit still and be silent, yet the duty I owe to my King, my country, and my conscience, moves me to stand up and exhort you to be firm and inflexible. Had not this siren so sweet a tongue surely he could never have effected so much mischief to this kingdom. You know, Sir, *optimorum putrefactio pessima*, the best things putrified become the worst, and as it is in the natural so in the body politic.”\*

Yet such as it has come down to us, it by no means merits these encomiums, and it must either be very imperfectly reported, or he must have had the full measure of favour at all times shown in the House of Commons, to any one vindicating himself with tolerable address from a personal accusation. He begins well by trying to insinuate himself into the good graces of his audience : — “Mr. Speaker, I do first present my most humble thanks to this honourable assembly for this favour vouchsafed me, in granting me admittance to their presence, and do humbly beseech them to believe it is no desire to preserve myself or my fortune, but to deserve your good opinions that hath drawn me hither. I do profess in the presence of Him who knoweth all hearts, that I had rather go from door to door, and crave *Da obolum Belisario*, with the favourable censure of this assembly, than live and enjoy all honour and fortune under your displeasure.” He then goes on to justify his religion, “ which was well known to be pure Protestantism by all the members of the Society of Gray’s

Inn, where he lived thirty years." He declares that the two places of Puisne Judge and Chief Justice of the Common Pleas were conferred upon him when he was far from the thoughts of the one and from the ambition of the other. He asserts that while he was Speaker he served the House with candour, never doing ill office to any. He excuses his refusal to put the question from the chair by the King's express command, and desires each of his hearers to consider how he would have comported himself between the displeasure of a gracious master and the ill opinion of this honourable assembly. He then goes to *ship money*, on which he makes a still lamer excuse, asserting that it was a mere accidental coincidence that he was made Chief Justice four days before the writs issued; that the Lord Keeper Coventry had made an improper use of the extrajudicial opinion upon the legality of the tax which the King had required to be kept secret; that he never used the least promise of preferment or reward to any of them; that his judgment in Mr. Hampden's case might be erroneous, but was conscientious; and that he had always maintained that ship money could only be lawfully levied when the kingdom was in danger,—suppressing his doctrine, that the King was the sole judge of the danger. He last of all justified himself from the charge of violating the *Carta de Foresta* by enlarging the boundaries of the royal forests, and concluded by submitting all that he had done to the goodness and justice of the House.

As soon as he concluded he withdrew to the Upper House that had been waiting for his return.

Rigby's speech was short and pithy:—"What then, Mr. Speaker, is to be done? You have been told, and we all know it, — *Ense recidendum est*, the sword of justice must strike, *ne pars sincera trahatur*. Not the tongue, but the heart and actions are to be regarded; for doth not our Saviour say it, — *Show me thy faith by thy works, O man?* Now, Mr. Speaker, hath not this kingdom seen — seen said I — nay, felt and smarted under the cruelty of this man's justice? — so malicious as to record it in every Court of Westminster, as if he had not been contented with the enslaving of us all unless he entailed our bondage to all posterity. Why should I believe words now, *cum factum videam?* Shall we be so weak men as when we have been injured and abused, to be gained again with fair words and compliments? or, like little children, when we have been whipt and beaten, be pleased again with sweetmeats? Oh, no! There be some birds that in the summer of parliament will sing sweetly, who in the winter of persecution will for their prey ravenously fly at our goods — nay, seize upon our persons. It is objected that in *judgment* we should think of *mercy*, and *Be ye merciful as your Heavenly Father is merciful*. Now, God Almighty grant that we may be so, and that our hearts may be rectified to know truly what is mercy; for there is the point, Mr. Speaker. I have heard of *crudelis misericordia*; and I am sure the Spirit of God saith, *Be not pitiful in judgment*, nay, it saith, *Be not pitiful of the poor in judgment*. If not of the *poor*, then, *à latiori*, not

of the *rich*; there's the emphasis. We see by the set and solemn appointments of our Courts, what provision the wisdom of our ancestors hath made for the preservation, honour, and esteem of justice. Witness our frequent terms, sessions, and assizes; and in what pomp and state the Judges in their circuits, by the sheriffs, knights, and justices, and all the country, are attended, — oftentimes for the hanging of a poor thief for the stealing of a hog or a sheep — nay, in some cases, for the stealing of a penny. And now shall not some of them be hanged that have robbed us of all our property, and would have made us all indeed poor Belisarius — to have begged for halfpence when they would not have left us one penny that we could have called our own? Let us therefore set the deplorable state of Great Britain before our eyes, and consider how our most gracious Sovereign hath been abused, and both his Majesty and all his subjects injured by these wicked instruments, and let us not be so merciful to them that are become merciless to the whole kingdom. *Fiat justitia.*"

The question was then put, "that John Lord Finch, Baron of Fordwich, Lord Keeper of the Great Seal of England, shall be accused by this House of high treason and other misdemeanours, in the name of this House and all the Commons of England, and that the Lords be desired to sequester him from parliament, and that he be committed."

This was received with such loud and general cheers that there was no longer the slightest hope of effectually resisting it, and the only object of Finch's friends was to keep up the debate till past mid-day when the Lords would have adjourned, — so that the impeachment could not be carried up till the following day, and that instead of being at once transferred from his place in parliament to the Tower, as Strafford and Laud had been, he might in the meanwhile consult his safety by flight. They therefore, without venturing directly to combat the motion, wasted the time by raising disputes about order, and delayed the putting of the question by frequent interruptions, then "a common artifice,"\* till it was twelve o'clock, and they knew that the House of Peers was risen for the day. The Lord Keeper, aware of what was going on in the Commons, hurried the adjournment, bade a final adieu to the woolsack, and had taken his departure precipitately without venturing to cast a lingering look behind.

When it was ascertained that Finch was safe, the question was allowed to be put, and it was carried in the affirmative; a few voices feebly saying, *No*. The Lord Falkland was appointed to carry up the accusation to the House of Peers.

Finch concealed himself till it was dark. He then privately sent the Great Seal to the King; and, embarking in a galliot which had been suddenly hired for him, made sail for Holland.

At the meeting of the Lords next morning, it was known that the Lord Keeper had absconded; and Littleton, Chief Justice of the Common Pleas, under a commission from the King, was placed on

\* See 4 St. Tr. 22.

the woolsack as Speaker. Lord Falkland immediately appeared at the bar to prefer the impeachment. Having read the articles, he said :

“ *Nil refert tales versus qua voce legantur.* ”

“ The charge was such as required no assistance from the bringer ; when voted, having been attended with all possible evidence, and all possible aggravation, that addition only excepted which my Lord Finch alone could make, and had made, by his confession, signified in his flight.”

The Lords sent back a message to the Commons, that they had taken into consideration the charges against John Lord Finch, late Keeper of the Great Seal ; but having received intimation that he was not to be found, they had ordered him into safe custody as soon as he could be discovered.

It was generally suspected that his escape had been connived at by the popular leaders ; but there seems to have been a large majority in the House of Commons who wished to bring him to the block.

The noble and learned fugitive arrived safely in Holland ; and on the 3d of January, 1641, wrote the following letter to Lord Pembroke, to be laid before the two Houses :

“ My most well-beloved Lord, the interest your Lordship hath ever had in the best of my fortunes and affections, gives me the privilege of troubling your Lordship with these few lines, from one who hath now nothing left to serve you withal but his prayers. These your Lordship shall never want, with an heart as full of true affection to your Lordship as ever any was. My Lord, it was not the loss of my place, and with that of my fortunes, nor being exiled from my dear country and friends, though many of them were cause of sorrow, that afflicts ; but that which I most suffer under is, that displeasure of the House of Commons conceived against me. I know how true a heart I have ever borne towards them, and your Lordship can witness, in part, what ways I have gone in ; but silence and patience best become me. With these, I must leave myself and my actions to the favourable construction of my noble friends ; in which number your Lordship hath a prime place. I am now at the Hague, where I arrived on Thursday, the last day of last month, where I purpose to live in a fashion agreeable to the poorness of my fortunes. As for any views in this world, I have utterly cast off the thoughts of them ; and my aim shall be so to learn *to number my days, that I may apply my heart unto wisdom* — that wisdom, that shall wipe all tears from mine eyes and heart, and lead me by the hand to true happiness, which can never be taken from me. I pray the God of Heaven to bless this parliament with both a happy progress and conclusion ; and if my ruin can induce but the least to it, I shall not repine. I truly pray for your Lordship and your noble family, that God would give an increase of all worldly blessings, and in the fulness of days to receive you to his glory. If I were capable of serving any body, I

I would tell your Lordship, that no man should be readier to make known his devotion and true gratitude to your Lordship, than your Lordship's most humble and affectionate poor kinsman and servant.

“FINCH.”

He remained in exile about eight years, in great penury and misery. Even the royalists, who from time to time escaped beyond seas to avoid the tyranny of the parliament, generally shunned him, although they could not avoid sometimes coming in contact with him at hotels and boarding houses.\* At last, by making an abject submission to Cromwell, and agreeing to pay a sum of money as a delinquent, he was allowed to return; and he lived in retirement till the Restoration.

He was then most indecently put into the commission for the trial of the Regicides,—which calls forth this indignant complaint from Ludlow: “Finch, who had been accused of high treason twenty years before by a full parliament, and who, by flying from their justice, saved his life, was appointed to judge some of those who should have been his judges.”†

He is only reported to have spoken once during the trials. This was upon the observation of General Harrison, “Whereas, it has been said, we did assume and usurp an authority; I say this was done rather in the fear of the Lord.”

*Lord Finch.*—“Though my Lords here have been pleased to give you a great latitude, this must not be suffered that you should run into these damnable excursions, to make God the author of this damnable treason committed by you.”‡

He died soon after, universally despised by cavaliers as well as republicans,—by high churchmen as much as by puritans. Leaving no issue, this branch of the family of Finch became extinct; and with it the barony of Finch of Fordwich.

We must rejoice that he escaped the scaffold, of which he was in such danger; but we cannot regret the subsequent misfortunes which befel him. Nothing can be conceived more subversive of public virtue, than the continued prosperity of an unprincipled judge and reckless politician, who has notoriously advanced himself by his profligacy, and set at naught all regard to consistency and decency.

\* “Arrived at the Hague, I find my Lord Finch, not long before fled out of England from the fury of the Parliament.” “I lodged at Brown’s. There was in pension with us my Lord Finch.” — *Evelyn’s Private Correspondence.*

† Mem. 365.

‡ 5 St. Tr. 1025.

## CHAPTER LXV.

## LIFE OF LORD KEEPER LITTLETON FROM HIS BIRTH TILL THE COMMENCEMENT OF THE CIVIL WAR.

THE Great Seal remained for some time with the King after the night of the 21st of December, when he so unexpectedly received it from Lord Finch, about to fly for his life.

In such an extraordinary emergency there was much difficulty in [A. D. 1640.] the appointment of a successor. Banks, the Attorney General, had been actively engaged in all the unconstitutional and cruel government prosecutions which had taken place during the suspension of parliament; and Herbert, the Solicitor General, though recently appointed, had rendered himself almost equally obnoxious to the popular party, by the blind zeal he had displayed in support of the arbitrary principles on which the government had been conducted. The promotion of either of them would therefore have been considered a direct insult to the House of Commons, and an acknowledgment by the King that all his professions of amendment were insincere. There was a disposition to offer office to some of the lawyers on the other side,\* but none of them could be prudently trusted to preside in the House of Lords,—particularly when it was considered that the impeachments against Strafford and Laud would soon be coming on to be heard. Strafford, now in the Tower, still kept up a private intercourse with his royal Master,—and it is said to have been on his recommendation that, on the 29th of January, 1641, the Great Seal was delivered to Sir EDWARD LITTLETON, Chief Justice of the Common Pleas, as Lord Keeper.

Although the appointment did not turn out felicitously, either for him who suggested it or for the public,—apparently a better choice could not have been made, as Littleton was a very profound lawyer, and a man of excellent private character; and although he had changed sides in politics,—considering the times, he was to be praised for his moderation,—for he had not violently persecuted his ancient opinions or his ancient friends. With more moral courage and energy he might have made himself a great name, and prevented the coming collision; but, entertaining the best intentions, he greatly disappointed the expectations of his friends, and he pursued a vacillating course, which ended in his own disgrace, and aggravated the calamities of his country.

Edward Littleton, the subject of this memoir, was of an ancient family of the robe, being lineally descended in the male line from the

\* Oliver St. John, long in "the sedition line," was soon after made Solicitor General.

great Littleton, author of "The Tenures," and Judge of the Common Pleas in the reign of Edward IV. This legal patriarch left three sons, the eldest of whom is the ancestor of Lord Lyttleton, and the second of Lord Hatherton. From the third was descended the Lord Keeper, who was born at Mounslow, in Shropshire, in the year 1589, being the eldest son of Sir Edward Littleton, of Hewley, in the same county, likewise of the profession of the law, having been one of the Justices of the Marches, and a Judge of North Wales. Young Edward Littleton was educated at a provincial grammar school till he was sent to Oxford, and entered a gentleman commoner at Christ Church. Here he applied very diligently to study, and in 1609 he took the degree of Bachelor of Arts, having gained great applause for his proficiency in logic and in classical learning. He continued a very diligent student during the remainder of his life.

Being removed to the Inner Temple, he devoted himself to the Year Books and antiquarian lore. He was a bosom [A. D. 1606.] friend of Selden, and for some years they carried on their studies in common, often going together to the Tower of London, there to regale themselves with the smell of ancient parchment.\* He continued at the same time to keep up an acquaintance with more elegant pursuits. He was a famous swordsman, and he showed in his youth a taste for the military art, which afterwards broke out in maturer years, and placed him at the head of a regiment,—with the Great Seal in one hand, and a pike in the other. But he was determined to rise by his profession, and when he was called to the bar he was reckoned the best grounded common lawyer which his Society had sent forth for many years. He soon rose into very great practice.

In 1626, he was returned a member of the House of Commons, and eagerly joined the patriotic party then struggling against the ascendancy of the Duke of Buckingham, and he took an active part in supporting the impeachment carried on against that powerful favourite.†

He again sat in Charles's third parliament called in 1628, and fought zealously for the cause of liberty under the auspices of Sir E. Coke. He was much noticed by the venerable patriot, and through his influence was chosen chairman of the Committee which examined into grievances since the preceding dissolution, and prepared the "Petition of Right." He moved four resolutions, which were unanimously agreed to by the House:—1st, "That no freeman ought to be committed or detained in prison, or otherwise restrained by command of the King or the Privy Council, unless some cause of the commitment, detainer, or restraint be expressed, for which by law he ought to be committed, detained, or restrained."—2dly,

\* "Oh, Tewkesbury, the smell  
Of ancient parchment pleas'd thee well." — *Plaider's Guide*.

† 2 Parl. Hist. 53.

“That the writ of Habeas Corpus cannot be denied, but ought to be granted to every man that is committed or detained in prison, or otherwise restrained by the command of the King, the Privy Council, or any other, he praying for the same.”—3dly, “That if a freeman be committed or detained in prison, or otherwise restrained by command of the King, Privy Council, or any other, no cause of such commitment or detainer being expressed, and the same be returned upon a Habeas Corpus granted for the said party, that then he ought to be delivered or bailed.”—4thly, “That the ancient and undoubted right of every freeman is, that he hath a full and absolute property in his goods and estate, and that no tax, tallage, loan, benevolence, or other like charge, ought to be commanded or levied by the King or his ministers, without common assent of parliament.”

Afterwards, at a conference with the Lords, who were called upon to concur in these resolutions, he made a very learned and admirable speech, showing that they were founded on acts of parliaments and precedents. Sir E. Coke followed, greatly praising his young friend, and saying, “Your Lordships have heard seven acts of parliament in point, and thirty-one precedents, summarily collected, and with great understanding delivered. I am transported with joy, because of the hope of good success in this weighty business.”

In a subsequent stage of the proceeding, Heath, the Attorney General, having attempted to prove that commitments by the King himself were not subject to the ordinary rules of law, and stood up for *lettres de cachet*, Littleton made a furious attack upon him, and successfully demolished his authorities and arguments, showing that “it is equal whether the King do it himself or by the agency of others.”\* He had a no less triumphant conflict with Secretary Crooke, who, although he had signed most of the illegal warrants by which members had been sent to gaol for their conduct in the House, now found it convenient strongly to recommend moderation. “We have moderation preached to us,” said Littleton, “and we follow it. But what is the conduct of those who preach it? Let the parties have their doom who have violated the liberties of parliament.”† When the “Petition of Right” passed the Commons, he had the honour to be appointed, along with Sir E. Coke and Sir Dudley Digges, to carry it up to the Lords.

The flaming patriot, however, could not resist the tempting offers made to him when the system was begun of buying off opposition, and he went over to the Court along with Noy, Saville, and Wentworth. But it must be acknowledged that he did not like them show the zeal of a political convert from the errors of opposition, and he continued to enjoy the good-will and to cultivate the society of his early friends. His first preferment was a Welsh Judgeship (in after times so perilous to patriotism), and soon after, by the support of the government, he was elected Recorder of London.

When Lord Keeper he must have looked back with much regret to

\* 2 Parl. Hist. 259. 262. 295. 3 St. Tr. 85.

† 2 Parl. Hist. 441.

this period of his life. He still continued to practise at the bar, and without political office was easily at the top of his profession. Noy, the Attorney General, a most learned man, confined himself to his official duties, and was day and night among the musty records from which he was inventing, and preparing to justify, his writ of ship money. The Solicitor was one Shilton, silly and ignorant—put in by a caprice of the Duke of Buckingham, and universally despised. Brampton, the King's Serjeant, was lengthy and laborious, but seldom went beyond the drowsy atmosphere of the Common Pleas. Littleton, who had “taken great pains in the hardest and most knotty part of the law as well as that which was more customary, and was not only very ready and expert in the books, but exceedingly versed in records, so that he was looked upon as the best antiquary of the profession, and upon the mere strength of his own abilities had early raised himself into the first rank of the practices in the Common Law Courts, now grew into the highest practice in all the other Courts,”\* and he was eagerly retained in every cause of consequence depending not only in the King's Bench and Exchequer, but in Chancery, in the Star Chamber, and at the Council Table. Though subject to a few sarcasms for the countenance he now gave to the unconstitutional measures of the government and the altered tone of his conversation on political subjects,—as parliament never met he did not incur any public obloquy, and in private society he was much sought after, not only by flatterers, whom he contemned, but by the numerous class of agreeable persons who are always desirous of cultivating the acquaintance of a man rising into great professional eminence.

On the lamented death of Noy at the moment when his writs of ship money were ready to be launched, Banks, a brazen-faced lawyer, was put in his place, but he was more remarkable for boldness than for skill or weight to defend the measures now in contemplation. “When the King found he should have much to do in Westminster Hall, he removed an old, useless, illiterate person who had been put into that office by favour, and made Littleton Solicitor General, much to his honour but not to his profit, the obligation of attendance upon that office depriving him of much benefit he used to acquire by his practice.”† A more unpleasant consequence must have been to him, who was always defective in nerve and energy, that he was now obliged to appear as counsel for the Crown in all public prosecutions, however obnoxious they might be. But in looking through the state trials of this period, it is wonderful to see how he contrived to throw the odious parts upon the King's Serjeant and the Attorney General, and how he betook himself to comfortable obscurity. In the prosecution against Bastwick, Burton, and Prynne, although he could not be silent, he confined himself when he followed Sir John Banks and Serjeant Whitfield to vindicating the memory of Noy, who was said in “The Divine Tragedy,” one of the publications included in the information,

\* Clarendon.

† Ibid.

to have been struck, as a judgment from Heaven, with a mortal disease when scoffingly looking at Prynne having his ears cut off in the pillory under a former sentence.\*

At last came *Rex v. Hampden*, and he was obliged to take the [A. D. 1637.] bouring oar. Ship money was to be proved to be legal by precedents, processes, records, and writings of different æras, from the heptarchy downwards,—which were to upset all the acts of parliament which had been passed to forbid taxation without authority of parliament, and were to show that acts of parliament upon such a subject were *ultra vires* and void. Noy being gone, it was felt that no one could so well use his materials as Mr. Solicitor. He was heard before all the Judges in the Exchequer Chamber for the Crown three entire days, after Oliver St. John had spoken two days for the defendant. His argument is certainly very learned and ingenious, and much more modest, or rather less outrageously offensive, than that of Chief Justice Finch and several of the Judges, who openly avowed the principles of pure despotism, insisting that the prerogative of the Crown was essentially absolute, and could not be controlled by legislative enactments. He candidly allowed that, in England, subjects have a property in their goods; but he contended that the law of property must give place to the law of nature for the common defence, and that the levying of a debt or duty upon property, so far from destroying doth confirm it. “*Quicquid necessitas cogit defendit*; the law of the time must regulate the law of the place. A chirurgeon may cut off one member to save the rest. If a storm arise at sea, to cast out goods is lawful, and they whose goods are saved shall contribute to the loss. A man may pull down the house of another when the next house to it is on fire. *Jam tua res agitur paries cum proximus ardet*. If two men are fighting, a passer-by may part them, and put them into several chambers, because it is for the good of the commonwealth. If a madman be abroad, he may be taken, whipped, and imprisoned, lest he do violence to himself or others. The King may compel all to defend the realm, and he may vary the mode of contributing to the public defence. Judges are not to fight, but they are to be knighted;† nay, a Serjeant sworn in the Common Pleas is compellable; Rolfe, a stout Serjeant, pleaded that he was of the degree of the coif, and not bound to be a knight, but he was forced to it. Imminent perils to a

\* A ludicrous circumstance happened on this occasion, which shows that, even in the Star Chamber, in cases of libel, the truth of the charge might be inquired into. Littleton undertook to prove by three or four gentlemen of good credit and rank, that Mr. Noy laboured long before under the infirmity of which he died. “The Solicitor then called out for room for the gentlemen to come in, but none such appeared.”—3 St. Tr. 719. So late as Queen Anne’s time, Lord Holt, in Tuchin’s case, called upon the defendant to prove the truth of his charges, and the judge-made doctrine that “the greater the truth the greater the libel,” now statutarily repealed,—was of later origin.

† One judge in my time successfully resisted this supposed obligation, by refusing to go to court or to appear in the King’s presence after his appointment. He said that he was determined to die “*John Heath, Esquire.*”

state dispense with ordinary proceedings in law; *inter arma silent leges*. Nay, if there are but rumours of war, laws are silent." He then undertakes to prove his general doctrines by going through English History from the foundation of the kingdom to the Norman Conquest — from thence to *Magna Charta* — to the statute *De Tallagio non concedendo* — to the first granting of tonnage and poundage — and, finally, to the Petition of Right, "which did no ways concern the dispute." He relied mainly on *Danegelet*, arguing, that "if usurpers could lay this tax on the people, much more may our natural born King do the like — which shows it to be an undoubted inalienable right in the Crown of England. Oh, say they, but this *may be* done by parliament. By a *may be* a man may answer any argument. Oh, but they tell us that Fortescue, Chief Justice of the King's Bench, to show the law of England to be better than the law of France, saith, that nothing can be taken from an Englishman but by parliament, he himself consenting thereto. That, my Lords, is *in the ordinary way*. Doth he say that no man without parliament may contribute to defend himself? *Ne verbum quidem!*" — But this taste of the reasoning of the law officers of the Crown in those days must suffice.

Although he acquired considerable reputation on this occasion, he became more and more dissatisfied with his position and with the aspect of public affairs. He lamented the inhuman punishments to which his colleagues instigated the Star Chamber, and, amidst the growing discontents of the nation, he saw distinctly that the day of retribution was at hand.

Finch being made Lord Keeper on the death of Coventry, a vacancy occurred in the office of Chief Justice of the Common Pleas, to which Banks had the best right, this being [JAN. 1640.] called "the Attorney General's cushion;" but Mr. Attorney being of a stouter heart, and not unwilling to enjoy a little longer the sweets of his lucrative place, waived his claim, and Littleton, to his inexpressible delight, from being tossed on a tempestuous ocean, found himself at once in the delicious harbour for which he had long prayed, and which he had hardly hoped ever to reach. "He was made Chief Justice of the Common Pleas, then the best office of the law, and that which he was wont to say, in his highest ambition in his own private wishes, he had most desired; and it was indeed the sphere in which he moved most gracefully and with most advantage, being a master of all that learning and knowledge which that place required, and an excellent Judge, of great gravity, and above all suspicion of corruption."\*

He was soon after made a Privy Councillor, against the wishes of Lord Keeper Finch, who was desirous of preventing other lawyers from entering into any rivalry with himself. The succeeding twelve months must have been a very agreeable portion of his existence, from his considering not only what he actually enjoyed, but that from which

\* Clarendon.

he had escaped, and to which he saw others exposed. While he was securely reaping the public applause in a high office, the duties of which he felt that he thoroughly understood and could satisfactorily perform, he must have thought to himself what he must have suffered buffeted in the House of Commons—vainly attempting to palliate the enormities of the government, which he had secretly lamented and [APRIL, 1640.] condemned. When the fatal step was taken of abruptly dissolving the parliament, if still a law officer of the Crown, he would have been called upon to give an opinion that the Convocation might sit on, vote supplies, and make canons binding on the laity,—he would have been called upon to sanction modes of filling the Exchequer if possible more illegal than ship money,—and he would have seen the dire necessity of being soon exposed to another parliament in which the misgovernment of twelve years was inevitably to be examined and punished.

When the Long Parliament met, he little thought that his further [Nov. 1640.] elevation and his troubles were approaching; and he still hoped that he might long repose on his “cushion” in the Common Pleas. On the morning after Finch’s flight, he suddenly found himself on the woolsack, as Speaker of the House of Lords. Still he trusted that this appointment was only temporary, till the Great Seal should be delivered to another Lord Keeper.

But he discovered in a little time that the King, by the secret advice of Strafford and Laud, wished that he himself should become Lord Keeper. Sincerely declining the elevation, he was gently reminded of his obligations to the King, and strongly assured, that he might not only be instrumental in saving his old friends and patrons about to be tried for high treason in the House of Lords, but that he might be the means of bringing about a happy settlement of all the existing differences, and of saving the state. Conscious of his own mental infirmities, and foreseeing the perplexities in which they might involve himself and others, he long resisted; but Hilary term approaching, there being an absolute necessity that the vacancy should be filled up for the ordinary administration of justice, and the King’s importunity continuing, he yielded, and took the step which he forever repented;—for he had not another day of peace of mind, and he experienced nothing but doubt, anxiety, mortification, and self-reproach, till his eyes were closed in death.

He received the Great Seal, as Lord Keeper, at Whitehall, on the 19th of January, 1641; and two days after, on the first day of Hilary term, he took his place in the Court of Chancery in the presence of the Lord Treasurer, the Earl Marshal, the Marquis of Hamilton, the Earl of Pembroke, and many others of the nobility.\* On the 18th of February following, he was raised to the Peerage by the title of Lord Littleton, of Mounslow, this promotion likewise being said to have been suggested by Lord Strafford, who thought he might be more useful

if permitted to take part in the proceedings of the House as a Peer than if he could only put the question as Speaker, — a plan destined to end in disappointment and discomfiture.

The first business which came before the House of Lords after the new Lord Keeper's elevation, was the "Triennial Bill," by which, if there was an intermission of parliaments for three years, the Peers were to meet and issue writs, in the King's name, for the holding of a parliament; and in case of default by the Peers, the returning officers were to elect representatives to the House of Commons; and in case of their default, the constituents were to meet and choose representatives of their own authority, so that this law might not be evaded — as that had been which required "that parliaments should be held yearly, and oftener *if need be.*" The passing of this act caused ringing of bells and bonfires all over England; and the Lord Keeper, by the direction of both Houses, returned thanks to his Majesty for giving his assent to it; saying, that it would be of singular security for the present, of infinite honour to his Majesty's royal crown and dignity, and of great comfort to posterity.\* He then took an oath before the Lords spiritual and temporal, that while he held the Great Seal, he would duly issue writs for the summoning of parliaments as the act directs.†

We now come to a passage in his life which justly subjects him to the charge of the basest pusillanimity. Treachery even was imputed to him; but I think his conduct is to be explained by a lamentable deficiency of courage, not of principle. He had been recently raised to the Peerage in the belief that he might be of great service, by presiding as a member of the House of Lords, at the important trial about to take place, on which the life of Strafford, and the fate of the monarchy, were supposed to depend. According to Clarendon, — when he had been made Lord Keeper, he was a little mortified in not at once having a Peerage, and he himself expressly pointed out to the King the important services he should be able to render to the royal cause if that dignity were conferred upon him.

On the day when Strafford was to be arraigned, the King unexpectedly came to the House of Lords, and seating himself on the throne without his robes, merely said [FEB. 24, 1641.] that he wished to hear the nature of the charges. The ceremony having been once gone through, he withdrew, and several Peers testified high resentment at this intrusion, insisting that it was an attempt to intimidate, and that all that had taken place while the King was present was to be considered *coram non judice*, and void.

Now it was expected that "Baron Littleton of Mounslow" would have stood up for the King, and he certainly might have urged that both on principle and precedent, Charles in this instance had done nothing irregular, for the King is always supposed to be present in parliament, and in former times was actually on the throne, not only

\* 2 Parl. Hist. 718.

† Crown Off. Min. Book, fol. 5.

at the opening and conclusion of the session, but almost constantly while any business was going on. Although it belonged to the Peers to regulate the conduct of this impeachment, and to decide by a majority of votes upon the guilt or innocence of the accused, the King, without interfering with the proceeding, was entitled to be present at it, and might at any moment have put a stop to it by a dissolution. But the Lord Keeper was so frightened by this sudden storm, that he had not a word to say even by way of apology for the King, and a motion being carried without opposition, that the Earl of Strafford be again called to the bar, that the articles of impeachment might be read to him, and his plea taken *de novo*;—without leaving the woolsack, he a second time went through the ceremony of the arraignment.\*

Some thought that the Lord Keeper would make amends when the trial actually came on; but the day before that fixed for its commencement, he sent a message to the House of Lords, intimating that he was taken so ill that it was impossible for him to attend, and besides that he had some doubts whether the objection of the Commons was not well founded, that no Peers created since the impeachment was voted ought to sit on the trial, as the impeachment was in the name of all the Commons of England, and therefore such Peers being prosecutors were disqualified as Judges.†

This was justly considered a material advantage gained for the impeachment. The Earl of Arundel, the Earl Marshal, an enemy of Strafford, was elected by the House to sit Speaker in the absence of the Lord Keeper.

The truth was, that when Littleton heard of the preparations in Westminster Hall for this great solemnity,—the court for the Peers, the closet for the King and royal family, the galleries for the House of Commons, the seats for the Scottish Commissioners and the deputation from the Irish parliament, and, above all, the crowds that were to assemble, and the cries for vengeance that had already been uttered in the streets,—his heart entirely failed him, and a real illness afterwards came on, which confined him for some weeks to his bed.

Before he would acknowledge that he had recovered, Strafford, by an unparalleled display of constancy and talent,—without professional assistance,—and three nations marshalled against him, had defeated the proceeding by impeachment. A bill of attainder had been brought in to put him to death without the forms of justice; the Judges now yielding to popular, as they formerly did to royal intimidation, had iniquitously pronounced that the charges against him amounted in point of law to high treason; amidst the apprehension

\* 2 Parl. Hist. 742.

† In point of law there is no foundation for this objection. The creation of peers to influence a pending impeachment would be highly unconstitutional, and would subject those who advised such a step to severe punishment; but peers, when created, have all the rights and privileges of the peerage, and no exception can be taken to the competency of any peer.

of new plots against the nation, the Bill had rapidly passed both Houses ; the King's scruples had been overcome by the solicitations of the Queen and the sophistry of the Bishops ; and the noble victim, after exclaiming, "Put not your trust in princes," had met his fate with such courage and composure as to enlist all sympathy in his favour, and to make his name respected by posterity, although having been once the champion of public rights, he had long systematically laboured to subvert the liberties of his country.

After Strafford's execution, Littleton resumed his place on the wool-sack ; but he offered no resistance to any of the bills which came up from the Commons. He was well justified in agreeing to those for abolishing the High Commission Court and the Star Chamber. He proposed an amendment to that for preventing a dissolution without the consent of the two Houses,—that it should be in force only for three years,—by the end of which time it might be expected that the reformation of the state would be completed ;—but this being objected to by the Commons, he withdrew it, and Charles was virtually dethroned.

At last there was some respite from these troubles, the two Houses having adjourned while the King went on a visit to Scotland, and Littleton was allowed to enjoy re- / [AUGUST, 1641.] pose at his villa at Cranfield.

Meanwhile the Irish rebellion broke out ; the alarm of a counter-revolution by a Roman Catholic force was universally spread, and parliament again meeting, [OCTOBER, 1641.] measures were proposed by the popular leaders inconsistent with monarchical government. None of these had the Lord Keeper the spirit to resist. His excuse was, that he cultivated the good-will of the republican party so that he might be able more effectually to serve the King. He might have stopped the bill for turning the Bishops out of the House of Lords, by insisting on the objection that a bill to the same effect had been rejected during the same session ; but yielding to the clamour of the mob, he voted for it, and agreed in advising the King to assent to it.

He then suddenly took another turn, which was still more fatal to the royal cause. The Queen, the ladies of the court, [JAN. 3, 1642.] and Lord Digby, resolved that they would put down the movement by a display of vigour, and that the prosecutors of Strafford should share his fate. A charge of high treason was to be suddenly brought against Lord Kimbolton, Pym, Denzell Hollis, Sir Arthur Hazelrig, Hampden, and Strode, upon which they were to be committed to prison, and it was thought that the disaffected, thus deprived of their leaders, would instantly become powerless. The charge was to be made—not by indictment before a grand jury, or by the impeachment of the Commons,—but by the Attorney General *ex officio* in the House of Lords.

When this scheme was disclosed to the Lord Keeper, he must have seen the madness of it. As a lawyer, he must have known that the House of Lords had no jurisdiction to try Commoners for a capital

offence ; and that the Attorney General had no power to originate such a prosecution. As a man of sense and observation, he must have been aware that the House of Commons and the public would not allow such a prosecution to proceed ; and that the attempt would only add to the popular excitement, and prevent all chance of reaction. But finding that the King was strongly bent upon it, he had not the courage to oppose it ; and he communicated a royal message to the Lords, “that the Attorney General, by the King’s special command, was to lay before them a charge, for high treason, against one member of that House and five members of the other House of parliament.” Herbert, the Attorney General, who had ceased to be a member of the House of Commons, and had taken his seat in the House of Lords under his writ of summons as an assistant, then rose from the Judges’ woolsack where he had been placed, and standing at the clerk’s table, said “that the King had commanded him to tell their Lordships that great and treasonable designs and practices against him and the state had come to his Majesty’s knowledge ; for which the King had given him command to accuse six persons of high treason, and other high misdemeanours, by delivering the articles in writing, which he had in his hand, which he received from his Majesty, and was commanded to desire their Lordships to hear read.”

The articles being read, they were found to charge the accused with subverting the fundamental laws of the kingdom,—with attempting to alienate the affections of the people from the King,—with sowing disaffection in the army,—with inviting the Scots to invade England,—with endeavouring to overturn the rights and being of parliaments,—with exciting tumults,—and with conspiring to levy war against the King. Mr. Attorney then moved, that their Lordships would take care for the securing of their persons. Lord Kimbolton was in the House sitting by Lord Digby, with whom he had a great private intimacy ; and who, although he had recommended the measure, pretended to him that it struck him with surprise and horror. According to the concerted plan, and according to the course pursued with Strafford and Laud, the Lord Keeper ought to have moved the immediate commitment of Lord Kimbolton ; but his courage failed him, and the House adjourned.

There is no direct evidence that Littleton was privy to the fatal course now pursued by the King, in going to the House of Commons personally to demand and arrest the five members, when they were not delivered up to his messenger ; but it is hardly possible to impute to Charles such culpable misconduct, such folly, as well as such criminality, as that he should proceed in a matter of such infinite importance, depending upon the legal extent of his prerogative, without consulting his chief law adviser and the Keeper of his conscience, with whom he was in constant intercourse. We know that a private council had been held upon the subject, from the intelligence conveyed to those most interested by the French ambassador,\* and by

\* “J’avois prévenu mes amis, et ils s’étoient mis en sûreté.” — *Mazure*, iii. 429.

"that busy stateswoman, the Countess of Carlisle, who had now changed her gallant from Strafford to Pym."\* If Littleton was present when it was debated and approved of, we may be sure from his character that however much he might disapprove, he would not venture to oppose it. To his timid acquiescence in whatever was proposed on either side, however imprudent or unconstitutional, may in no small degree be attributed the fatal collision which followed. All historians agree, that the prosecution of Lord Kimbolton and the five members, which he might easily have prevented, was the proximate cause of the civil war; for the popular leaders now saw that no faith was to be placed in any of the professions of the Court; and that without an appeal to the sword, their own lives must certainly be sacrificed.

When it was too late, the Lord Keeper brought down a message from the King, "that in all his proceedings against [JAN. 14, 1642.] the Lord Kimbolton and the five members, he had never the least intention of violating the least privilege of parliament; and that he was willing to have the matter cleared up in any way that parliament should advise." But this concession was imputed to a temporary apprehension from the burst of indignation which the previous outrage had universally called forth.

Preparations were now made on both sides for hostilities; and the country party brought in their bill for regulating the militia, which they thought indispensable for their own safety, although they could not expect that the King would agree to it, as it appointed a military chief in every county, and in substance transferred the command of the army from the Crown to the Parliament.

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## CHAPTER LXVI.

### CONCLUSION OF THE LIFE OF LORD KEEPER LITTLETON.

THE King now withdrew from London, and after passing some time at Newmarket, was proceeding towards York, communicating from time to time with the Lord Keeper, [MARCH, 1642.] in whom he still placed some lingering confidence. Being determined to dismiss the Earl of Essex and the Earl of Holland from the offices of Chamberlain and Groom of the Stole, he sent an order to Littleton that he should require the staff and key from the one and the other. The Keeper trembled at the task, and not being able to summon up courage to undertake it, went privately to Lord Falkland and desired him to assist him in presenting his excuse to the King. Making many professions of loyalty, he expressed a hope that his Majesty would not command him in an affair so unsuitable to the office he held; that no Keeper had ever been employed in such a service;

and that if he should execute the order it would be voted a breach of privilege, and the House would commit him to prison, by which not only would he himself be ruined, but the King would receive the greatest affront ; whereas the thing itself might be done by a more proper officer without inconvenience. " How weak soever the reasons were," says Lord Clarendon, " the passion was strong," and his representation being transmitted to the King, he was excused, and the harsh duty was imposed upon Lord Falkland himself.

But the conduct of the Lord Keeper was now so unsatisfactory that the King resolved to get rid of him. Since the failure of the accusation of the five members, Littleton had abandoned all effort to put on a show of vigour in the House of Lords, and had silently suffered the most objectionable votes to be carried without opposition. He was even suspected of perfidy, for he not only declined performing the duty which the King had enjoined him in reference to the Earls of Essex and Holland, but he had private conferences with the leaders of the parliamentary party, who frequently resorted to him, and whom he appeared very much to court. At last, having supported the Militia Bill to which the King refused the royal assent,—when it again came up from the Commons in the form of an ordinance by the two Houses, omitting the King's name,—he put the question upon it from the woolsack, and himself actually voted for it, " to the infinite offence and scandal of all those who adhered to the King."\* This was in reality the abolition of monarchy and the establishment of a republic.

Hyde, who had a kindness for him, and suspected that his nerves [MARCH 5, 1642.] might be more in fault than his principles, went early next morning to call upon him at Exeter House, and finding him in his study, began to express great astonishment and regret at his recent conduct, and plainly told him how he had lost the esteem of all good men, and that the King could not but be exceedingly dissatisfied with him. Some attendants being heard in an outer room, Littleton desired them to withdraw. Then locking the door of that room and of the study, he made Hyde take a seat, and sitting down near him, thus unburdened his mind :—" The best proof I can give of my value for this proof of your friendship is by concealing nothing from you. You see before you the most wretched of mankind. I have not had an hour of peace or comfort since I left the Common Pleas, where I knew both the business and the persons I had to deal with. I am supposed to be preferred to a higher dignity, but I am now obliged to converse with another set of men who are strangers to me, and with affairs which I understand not. I have had no friend with whom I could confer on any doubt which might occur to me. The state of public affairs has been deplorable and heart-breaking. The King is ill counselled, and is betrayed by those about him. The proceedings of the parliament which I may have appeared to countenance, I more bitterly condemn ; and I am

filled with the most gloomy forebodings, for they would never do this if they were not resolved to do more. I know the King too well, and I observe the carriage of particular men too much,—and I have watched the whole current of public transactions these last five or six months,—not to foresee, that it cannot be long before there will be a war between the King and the two Houses. I often think with myself of what importance it will then be, which party shall have the Great Seal, the *Clavis Regni*, the token of supreme authority. In my heart I am and ever have been for the King, both out of affection to his person and respect for his high and sacred office. When the trial comes, no man shall be more ready to perish either with or for his Majesty than myself. It is the prospect of this necessity that has made me carry myself towards that party with so much compliance, that I may be gracious with them,—at least that they may have no distrust of me. I know that they have had a consultation within a few days whether, as I may be sent for by the King or another put in my stead, it would not be best to appoint the Seal to be kept in some secure place, so that they might be in no danger of losing it, and that the Keeper should receive it from time to time for the execution of his office. The knowledge I had of this consultation, and the fear I had of the execution of it, has been the reason why, in the debate on the militia, I gave my vote in such a manner as must make a very ill impression with the King and many others who do not inwardly know me. If I had not now submitted to those I mislike, this very night the Seal had been taken from me. But my compliance will only prejudice myself, not the King. I have now got so fast into their confidence, that I shall be able to preserve the Seal in my own hands till the King require it of me, and then I shall be ready to attend his Majesty with it, wherever he may be, or whatsoever fortune may betide him."

Hyde, convinced of his present sincerity, although not altogether satisfied with the explanation of his past wavering, asked him "whether he would give him leave, when there should be a fit occasion, to assure the King that he would perform this service when required of him?" Littleton solemnly passed his word for the performance of it as soon as his Majesty pleased; and so they parted.

When the news of the Lord Keeper's vote on the Militia Bill reached York, the whole Court was thrown into amazement and dismay. The King, exceedingly displeased and provoked, sent a peremptory order to Lord Falkland instantly to demand the Great Seal from the traitor, and desired him to consult with Hyde as to who would be the fittest person to be appointed to succeed, suggesting the names of *Banks*, now Chief Justice of the Common Pleas, and *Selden*, the celebrated antiquary. The positive order to require the Seal from the present Lord Keeper would have been obeyed, had not Falkland and Hyde been so much puzzled about recommending a successor; but they thought the Lord Chief Justice Banks might be as timorous as the other in a time of so much disorder, although he had been bold enough in the absence of danger, and they concluded that he was

not equal to the charge. "They did not doubt Mr. Selden's affection to the King any more than his learning and capacity, but they were convinced that he would absolutely refuse the place if it were offered to him, as he was in years and of a weak constitution, and had long enjoyed his ease, which he loved, and was rich, and would not have made a journey to York, or lain out his own bed, for any preferment."\* Neither Herbert nor St. John, the Attorney and Solicitor General, of extreme opinions on opposite sides, could be thought of for a moment. Hyde then disclosed to Falkland the conference he had had with Littleton, the Lord Keeper's loyal professions, and the solemn pledge he had given; and proposed that they should, along with their opinions of the other persons, submit advice to his Majesty to suspend his resolution concerning the Lord Keeper, and rather to write kindly to him to bring the Seal to York, instead of sternly sending for it and casting him off. Hyde finished by offering to stake his own credit with the King that Littleton would be true.

Lord Falkland had no esteem of the Keeper, nor believed that he would go to the King if he were sent for, but would find some trick to excuse himself, and was for immediately getting the Great Seal out of his hands. Hyde, as a professional lawyer, pointed out how absolutely necessary it was, at such a juncture, that the King should first resolve into what hands to put the Seal before he reclaimed it, for that it could not be put out of action for one hour, but that the whole justice of the kingdom would be disordered, which would raise a greater and juster clamour than there had yet been; and again urged that care should be taken that no man should be able to say he had refused the office, an occurrence which would be most prejudicial to the royal cause. He observed, "that the great object was to have the Seal where the King himself resolved to be, and that if the Lord Littleton would perform his promise, it were desirable that he and the Seal were both there; if, on the contrary, he were not an honest man, and cared not for offending the King, he would refuse to deliver it up, and inform the disaffected Lords of his refusal, who would justify him for his disobedience, and they rewarding and cherishing him, he must ever after serve their turn, and thus his Majesty's own Great Seal should be every day used against him, the mischief whereof would be greater than could well be imagined."†

Falkland yielded, and they resolved to give an account of the whole to the King and expect his order. Charles naturally had great misgivings of the fidelity and firmness of Littleton, notwithstanding Hyde's confidence, but approved of the course recommended, and wrote back that on Saturday in the following week, as soon as the House of Lords had adjourned, a messenger from him should arrive at Exeter House and order the Keeper with the Seal to repair to him forthwith at York. This was communicated by Hyde and Falkland to Littleton, who expressed great joy at it, and promised that all should be arranged to the King's contentment.

\* Clarendon.

† Ibid.

On the Saturday he privately intimated that he was going to his villa at Cranford for his health, and induced the Lords to adjourn the House to as late an hour as ten o'clock on the Monday morning, that he might sleep two nights in the country. He had not long got back to his house in the Strand, when about two o'clock in the afternoon Mr. Elliot, a groom of the bed-chamber to the Prince, entered his study, where in breathless expectation he was waiting the royal messenger, and delivered to him an autograph letter from the King, requiring him, with many expressions of kindness and esteem, to make haste to him; and if his indisposition, for he was often troubled with gravel, would not suffer him to use such speed upon the journey as the occasion required, that he should deliver the Seal to the person who gave him the letter, who being a strong young man, would make such haste as was necessary, and that he might himself perform his journey by degrees suitable to his infirmities.

Littleton was surprised and mortified to find that the purpose of his journey had been communicated to the messenger, who bluntly demanded the Seal from him, and he at first declared that he would not deliver it into any hands but the King's; but he considered that it would be hazardous to carry the Seal himself such a journey,—that if, by pursuit of him, which he could not but suspect, he should be seized upon, the King would be very unhappily disappointed of the Seal, and that this misfortune would be imputed to imprudence in him, perhaps unfaithfulness. So he delivered the Seal to the person trusted by the King to receive it, without telling him any thing of his own purpose. Elliot was instantly mounted, and having provided a relay of horses, with wonderful expedition presented it to the delighted King at York, who, for a moment, supposed he had recovered all his authority; and, to enhance his merit, he told a vapouring story which he had invented, "how the Lord Keeper had refused to deliver the Seal, and how he got it by force by having locked the door upon him, and threatened to kill him if he would not give it to him, which, upon such his manhood, he did for pure fear consent unto."\*

As soon as the messenger was gone, Littleton pretended to be much indisposed, and gave orders that no one should be admitted to speak with him. He then called in Lee, his purse-bearer, on whose fidelity he could entirely rely, and putting his life in the power of this dependent, told him he was resolved to go next morning to the King, who had sent for him; that he knew the malice of the parliament would use all means to apprehend him; that he knew not how he should be able to bear the fatigue of the journey; that his horses

\* Life of Clarendon, i. 120. I am informed by Lord Hatherton that there is a tradition in the family that Elliot forced it from him with a pistol, and that the Lord Keeper, foreseeing the bad consequence such an outrage would be to the credit of the King and Elliot, prudently followed Elliot to York, in order to prevent it, by giving it the appearance of being his own voluntary act." But the account of the transaction which I have adopted, not only stands on positive testimony, but is supported by probability. If Littleton had broken his promise, and tried to retain the Seal against the King's mandate, he would have proceeded to York — only to be hanged in the Castle Yard.

should be ordered to be ready against the next morning ; that his own groom only should attend him, and that his purpose should be imparted to no one else living. The faithful purse-bearer, who was a keen royalist, was greatly delighted with his confidence, and insisted on being of the party.

At day-break next morning, the Lord Keeper and his purse-bearer stepped into his carriage, as if they had been going to Cranford ; but when they had got into the part of the country where Piccadilly now stands, they discovered by the side of a hedge a groom and two led horses. They immediately mounted, and taking by-paths till they were at a considerable distance from the metropolis, at noon felt themselves tolerably secure. The Lord Keeper's health stood the severe exercise beyond his expectation, and before the end of the third day he kissed the King's hand at York.\*

Sunday passed over in London without any alarm, those who inquired about the Lord Keeper believing, as they were told, that he was at his country house at Cranford ; but when he did not appear at the hour to which the Lords had adjourned on the Monday, the truth of his flight was discovered, and the confusion in both Houses was very great. The few friends of the King rejoiced ; but the popular leaders, who imagined that they knew all Littleton's thoughts, and had secured him to their interests, hung down their heads, and were distractred with shame. When they had a little recovered their spirits, although they concluded he was out of their reach, yet, to show their indignation, and perhaps in the hope that his infirmities might detain him on the journey, they issued a warrant for apprehending him, and bringing him and the Great Seal back to Westminster, as if they had been making hue and cry after a felon with stolen goods.† The two Houses made a farther decree, that if he did not return in fourteen days he should lose his office, and that all patents afterwards sealed with the Great Seal which he had carried off should be void. We shall see in the sequel, however, that they repaired the loss by manufacturing a Great Seal of their own, under which they issued edicts in the King's name in defiance of his authority.‡

\* This was considered an extraordinary journey, being performed, I presume, on the same horses ; but by relays of horses there was sometimes in those days a despatch which, till railways came up, must have seemed marvellous. Between Charles at York, and Hyde in London, papers were transmitted by royalist gentlemen, who voluntarily offered their services, and who sometimes performed the journey and brought back the answer in the short space of thirty-four hours. See the account of the transmission of the news of Elizabeth's death to James, *ante*, p. 195.

† 2 Parl. Hist. 1270. The warrant was addressed “ To the gentleman usher, or his deputy ; and all sheriffs, mayors, and other his Majesty's officers, shall be aiding and assisting to the gentleman usher or his deputies.”

‡ In this narration of Littleton's flight to York, I have closely followed the authority of Clarendon, who ought to be accurate, as he was personally privy to the whole transaction ; but according to the Journals of the Lords, — on the 20th of May, “ the Lord Keeper not being well, and so unable to sit as speaker, the House gave him leave to be absent, and appointed the Lord Privy Seal to sit as Speaker ;” and on Saturday the 21st, the House “ ordered that the Lord Keeper have leave to

Littleton's conduct at York was extremely mysterious, and seems to show that he is liable to the charge of duplicity as well as timidity. He was again declared Lord Keeper, though for some time the King would not trust the Seal out of his own presence, and when it was to be used, produced it to Littleton, and received it back from him as soon as the sealing was over. Credit was given by many about the Court to Elliot's story, till Hyde arrived at York, and stood up for the Lord Keeper's fidelity. The King then expressed a wish to take the Great Seal from him; but Hyde told him "that he would discourage many good men who desired to serve him very faithfully if he were too severe for such faults as the infirmities of their nature and defects in their education exposed them to, and that if the Keeper, from those impressions, had committed some faults which might provoke his Majesty's displeasure, he had redeemed those errors by a signal service, which might well wipe out the memory of the other." The King allowed that he had made expiation, but complained of his present conduct, and that he still raised difficulties about putting the Great Seal to proclamations against the parliament. Hyde replied, that "the poor gentleman could not but think himself disengaged to the highest extremity in the presumption of Mr. Elliot, and that his extravagant and insolent discourses should find credit without his Majesty's reprobation and vindication, who knew the falsehood of them; that his Majesty should remember he had newly escaped out of that region where the thunder and lightning is made, and that he could hardly yet recover the fright he had been often in, and seen so many others in; and that his Majesty need not distrust him,—he had passed the Rubicon, and had no hope but in his Majesty." Charles promised to show him countenance and protection in future.

The exclusive custody of the Great Seal was then offered to him, but he, expressing great joy at this mark of confidence, begged that it might remain with his Majesty, to be given to him when necessary, lest, by any violence or stratagem, it might be taken from him, and carried back to the parliament.\*

One would have thought that he would now have been disposed to set the parliament at defiance; but as soon as he heard of the steps taken against him at Westminster, he sent to the House of Lords "the humble petition of Edward Littleton, Lord Keeper of the Great Seal," showing that he was very willing to submit to their Lordships' order, but that this was impossible, (as appeared by the annexed affidavit,) without danger of his life; and that, having been ordered by the King to come to York, he was further ordered, on his allegiance, to remain there. The affidavit purported to be sworn by his servant, who accompanied him in his journey, and stated what was palpably false, that he was so ill on Monday, the 28th of May (when he was proceeding so swiftly to the north), that it was conceived he would then have been absent two or three days for his health."—Lords' Journals, v. 76, 77. It is possible that he may have attended and made his excuse, and obtained leave of absence in person.

\* Life of Clarendon, i. 125.

died ; and that he had since been disabled from travelling by his diseases and infirmities.\*

Nay, farther, when he got among the cavaliers, there being no "Times," "Morning Chronicle," or "Hansard" to refer to, he pretended that he had never favoured the parliamentary party, and he had the hardihood to assert that he had not voted in support of the Militia Bill.

These statements being reported to the Lords at Westminster, they ordered a committee of three to search the Journals for the truth of this matter, who immediately reported, "That the Lord Keeper was present when the petition to the King concerning the militia was agreed on ; that he was present, argued, and voted for the following resolution, *that in case of extreme danger, and of his Majesty's refusal, the ordinance of both Houses doth oblige the people, and by the fundamental laws of this kingdom ought to be obeyed* ; and, lastly, that he himself, under the **MILITIA ORDINANCE**, named deputy-lieutenants, and consented to the several forms of deputations of the militia."†

In the history of the Great Seal I ought here to mention that the two Houses, in their celebrated "Petition and Advice" of 2d of June, 1642, proposed that the Lord Chancellor or Lord Keeper, with some other officers, should always be chosen with the approbation of both Houses ; but the King received the proposal with mockery and scorn.

Although Littleton was continued in his office by the King till the time of his death, and although he ever after adhered to the royal cause, he does not seem to have been much trusted, and his name seldom occurs in subsequent transactions. He was not admitted with Hyde and Falkland into the secret consultations of the royalists, and his only official duty was to put the Great Seal to proclamations and patents. As Lord Keeper he was allowed, according to his precedence, to put his name first to the declaration issued by forty-eight Peers, just before the commencement of hostilities, "that to their certain knowledge the King had no intention of making war upon the parliament." He fixed his residence at Oxford, now considered the seat of government, but was sometimes called upon to attend the King in his campaigns. Without a bar, solicitors or suitors, he pretended to sit in Chancery, and he went through the form of passing a commission under the Great Seal, appointing certain other persons to hear and determine causes in his absence.‡ His most solemn judicial act at Oxford was calling Sir Richard Lane to the degree of Serjeant at Law, and swearing him in Chief Baron of the Exchequer.

After the battles of Edge Hill and Newbury there was in the beginning of 1644 the form of a parliament at Oxford, and a much greater number of Peers attended here than at Westminster, although the Bishops were not allowed to sit, in consequence of the act for excluding them from parliament, to which the King had given his assent. The Hall of one of the Colleges was fitted up in the fashion of the House of Lords, and Littleton presided on the supposed woolsack. But

\*2 Parl. Hist. 1319.

† Ibid. 1367.

‡ Jan. 3, 1643.

though Charles so far complied with the forms of parliament as to make the two Houses a short speech at the opening of the Session, he did not say, according to the precedents, that the Lord Keeper would further explain to them the causes of their being assembled. Littleton still being allowed his rank, subscribed next after the Princes of the blood the letter to the Earl of Essex, proposing an accommodation; and the two Houses, without venturing to impose a tax, having resolved to raise 100,000*l.* for the public service by loan, he jointly, with the Speaker of the House of Commons, addressed to all who were supposed able to contribute to it official letters of solicitation, bearing a very considerable resemblance to privy seals for the raising of a "Benevolence."\*

\* By the kindness of my friend, Lord Hatherton, I am enabled to lay before the reader a copy of one of these letters, which must be considered a very interesting historical document: —

"CHARLES R.

"Trusty and well-beloved, We greet you well. Whereas all our subjects of the kingdom of England and dominion of Wales, are both by their allegiance and the Act of Pacification bound to resist and supprese all such of Our subjects of Scotland as have in a hostile manner already entred, or shall hereafter enter into this kingdom. And by law, your personall service, attended in a warlike manner for the resistance of this invasion, may be required by Us, which we desire to spare, chusing rather to invite your assistance for the maintenance of Our army in a free and voluntary expression of your affections to our service and the safety of this kingdom. And whereas the members of both Houses of Parliament, assembled at Oxford, have taken into their consideration the necessity of supporting our army, for the defence of Us and Our people against this invasion, and for the preservation of the religion, laws, and liberties of this kingdom, and therefore have agreed upon the speedy raising of the summe of one hundred thousand pounds by loane from particular persons, towards the which themselves have advanced a very considerable proportion, and by their examples hope that Our well-affected subjects, throughout the kingdom, will in a short time make up the remainder, whereby We shall not only be enabled to pay and recruit Our army, but likewise be enabled to put Our armies in such a condition, as Our subjects shall not suffer by free quarters, or the unruliness of Our soldiers, which is now in present agitation, and will (we no way doubt, by the advice of the members of both Houses assembled) be speedily effected. We doe, towards so good a worke, by the approbation and advice of the said members of both Houses here assembled, desire you forthwith to lend us the summe of one hundred pounds, or the value thereof in plate, toucht plate at five shillings, untouch plate at four shillings, four pence per ounce; and to pay or deliver the same within seven daies after the receipt hereof, to the hands of the high sherrife of that Our county, or to such whom he shall appoint to receive the same (upon his acquittances for the receipt thereof), who is forthwith to returne and pay the same at Corpus Christi College in Oxford, to the hands of the Earle of Bath, the Lord Seymour, Mr. John Ashburnham, and Mr. John Pettipiece, or any of them, who are appointed treasurey for the receiving and issuing thereof by the said members (by whose order only the said money is to be disposed), and to give receipts for the same, the which We promise to repay as soone as God shall enable Us; this summe being to be advanced with speed, We are necessitated to apply ourselves to such persons as your selfe, of whose ability and affection We have confidence, giving you this assurance, that in such farther charges, that the necessity of Our just defence shall enforce us to require of Our good subjects, your forwardness and disbursements shall be considered to your best advantage. And so presuming you will not faile to express your affection herein, We bid you farewell.

He had fled so suddenly from London, that he had been obliged to leave all his books and manuscripts behind him. The parliament did not generously send them after him for his consolation, but made an order that "in respect to the learning of Mr. Whitelock, and his other merits in regard to the public, all the books and manuscripts of the Lord Littleton, late Keeper of the Great Seal, which should be discovered, should be bestowed on Mr. Whitelock, and that the Speaker grant his warrant to search for them, seize them, and put them into his possession."\*

Being practically without civil occupation, the Lord Keeper thought that he might agreeably fill up his leisure, and that he might raise his reputation, by looking like the times and becoming a soldier. We have mentioned that he was a famous swordsman in his youth. Though so notorious for moral cowardice, he was by no means deficient in natural bravery, and on whichever side he had happened to fight, he would have shown an English heart. He now proposed to raise a volunteer corps, which he himself was to command, to consist of lawyers and gentlemen of the Inns of Court and Chancery, officers of the different Courts of Justice, and all who were willing to draw a weapon for Church and King under the auspices of the Lord Keeper. The offer was accepted, and a commission was granted to him, of which the docket remains among the instruments passed under the Great Seal of King Charles I. at Oxford : "A commission granted to Edward Lord Littleton, Lo. Keep. of the Greate Seale, to raise a regiment of foot sooldiers, consisting of gent. of the Inns of Court and Chauncy, and of all ministers and officers belonging to the Court of Chauncy, and their servants, and of gent. and others who will voluntarily put themselves under his command to serve his Ma<sup>tie</sup> for the security of the Universitie and Cittie of Oxford. T<sup>e</sup> apud Oxon. xxi. die Maij A<sup>o</sup> R. R. Caroli, xx.<sup>o</sup>.†

per ipsm Regem."‡

Given at Our Court at Oxford, the 14th day of February, in the nineteenth year of Our raigne, 1643.

" By the advice of the members of both Houses assembled at Oxford,  
" ED. LITTLETON, C."

The above letter is among Lord Hatherton's family papers. The direction on it is torn and illegible; but no doubt it was addressed to the owner of his estate, at that time, Sir Edward Littleton, Bart., of Pillaton Hall. In a corner of the letter are a few lines, signed "Tho. Leveson Arm. Vic. Corn. Staff," which are almost illegible. They begin, "I am commanded to send you this letter;" the remainder seem to refer to the time and manner of remitting the money.

\* Life of Whitelock, 58.

† May 21, 1645.

‡ According to a statement by the Editor of his "Reports," the Lord Keeper's military zeal was felt by all members of the profession of the law then at Oxford, the judges included. "He was colonel of a foot regiment, in which were listed all the Judges, lawyers, and officers belonging to the several Courts of Justice." — *Pref. ed. 1683.* This reminds me of the gallant corps in which I myself served in my youth, "the B. I. C. A." or "Bloomsbury and Inns of Court Assoc.

The Lord Keeper devoted himself to this new pursuit with great zeal and energy, acting the part of Adjutant as well as Commander, and as he was a remarkably tall, handsome, athletic man in a green old age, he made an excellent officer. All connected with the Law flocked to his standard, and their number was greatly increased by recruits from the different colleges who mixed military exercises with their logical contentions in the schools. As a mark of respect for his military prowess, the University now conferred upon him the degree of Doctor of the Civil Law.\* Whether these learned volunteers could ever have been made capable of facing the psalm-singing soldiers of Cromwell—commanded by “Colonel Fight-the-good-fight-of-faith” and “Captain Smite-them-hip-and-thigh,”—is left in doubt, for the “Lord Keeper Commandant,” while drilling his corps one morning in Bagley Wood, was overtaken by a thunder storm, and caught a violent cold. This being neglected turned into a fever, which carried him off on the 27th of August, 1645,—to the great regret of the royalist party, notwithstanding his backslidings and the grave suspicions which had formerly been entertained of his fidelity.

He was buried with military honours in the cathedral of Christ church, not only his own regiment, but the whole garrison attending. All the nobility at Oxford, and the heads of houses, joined in the procession. The solemnity was closed with a funeral speech made for him, by the “incomparable Dr. Hammond,” then Orator of the University.

After the Restoration, a monument was erected over his grave—recording his origin, the high offices he had held, and the virtues his family wished to have attributed to him,—above all—

“FORTITUDE AND UNSUSPECTED FAITH TO HIS SOVEREIGN.”

In quiet times he would have passed through the world with honour and applause. Had he died Chief Justice of the Common Pleas, he would have left behind him, if not a splendid, a respectable reputation. But his elevation placed him in situations for which he was wholly unfit; and if he is saved from being placed with the treacherous, the perfidious, and the infamous, it is only by supposing him to be the most irresolute, nerveless, and pusillanimous of mankind. So completely did his faculties abandon him after he received the Great

ciation,” consisting of barristers, attorneys, law students, and clerks, raised to repel the invasion threatened by Napoleon; but none of the reverend sages of the law served in this or the rival legal corps named the “Temple Light Infantry,” or “The Devil’s Own,” commanded by Erskine, still at the bar. Lord Chancellor Eldon doubted the expediency of mixing in the ranks, and did not aspire to be an officer; Law, the Attorney General, was in the awkward squad.—Lord Keeper Littleton has, therefore, the glory of being recorded as the last successor of Turkel, Thomas-à-Becket, and the Earl of Salisbury, who ever carried arms while head of the law.

\* I do not find any account of the ceremony, but I presume the public orator, after enumerating his high civic distinctions, added “et militavit non sine gloria,” the compliment paid on a similar occasion to Sir WILLIAM GRANT, Master of the Rolls, who had served as a volunteer in Canada.

Seal, that he drivelled as a Judge,— not only in political cases before the Privy Council,— but also in the common run of business between party and party. His deficiency in the Court of Chancery has been accounted for by a suggestion that he was previously acquainted only with the practice of the common-law Courts: but this is wholly unfounded; for, during the whole time that he was Solicitor General, he was in the first business at the equity bar, though neither he, nor any other counsel, then confined themselves to that branch of practice.

Lloyd, with the undistinguishing eulogies he bestows on all, says of Littleton, that “ his learning was various and useful; his skill in the maxims of our government, the fundamental laws of the monarchy, with its statutes and customs, singular; his experience long and observing; his integrity unblemished and unbiassed; his eloquence powerful and majestic, and all befitting a statesman and a Lord Keeper.” But Clarendon, though inclined to screen him, having some regard to candour and truth, is obliged to say — “ Being a man of grave and comely presence, his other parts were overvalued. From the time he had the Great Seal he seemed to be out of his element, and in some perplexity and irresolution in the Chancery itself, though he had great experience in the practices and proceedings of that Court; and made not that despatch that was expected at the Council table; and in the parliament he did not preserve any dignity, and appeared so totally dispirited that few men showed any respect to him, but they who most opposed the King, who indeed did exceedingly apply themselves to him, and were with equal kindness received by him.”

In 1683 there was published a folio volume of his Reports of Cases decided in the Courts of Common Pleas and Exchequer in the beginning of the reign of Charles I. They are in Norman French, and they are not very valuable; but he had not intended them for publication, and they were found among the papers of his brother, Sir Timothy Littleton, a Baron of the Exchequer.\* The Lord Keeper never aspired to the honours of authorship.

He was twice married, but his only issue was a daughter, and his title became extinct. It was revived, however, in the elder branch of his family,— Sir Thomas Littleton, descended from William the eldest son of the founder, having been created Lord Lyttleton in the reign of George II. In the south window of the Inner Temple Hall there is a fine shield of the Lord Keeper’s arms, with fifteen quarterings, distinguished by a crescent within a mullet, which shows him to have been of the third house.†

\* The title is curious, as showing the strange Gipsy jargon then used by English lawyers: “ LES REPORTS des tres Honorable Enw. SEIGNEUR LITTLETON, BARON de MOUNSLOW, CUSTOS de le Grand Seal d’Angleter, et de ses Majesty plus Honorable PRIVY COUNCIL, en les Courts del COMMON BANCK et EXCHEQUER en le 2. 3. 4. 5. 6. 7. ans del reign de Roy CHARLES le I.”

† I am indebted to Lord Hatherton, representative of the second house of the Littletons, for several interesting particulars of the Lord Keeper, which I have above related.

## CHAPTER LXVII.

## LIFE OF LORD KEEPER LANE.

I HAVE now to introduce to the reader a man who, although he never was installed in “the marble chair” in Westminster Hall, nor ever presided on the woolsack, was the legitimate successor of the illustrious Lord Chancellors and Lord Keepers whose names are known to fame. I regret that my researches respecting him have not been more successful, for all that I have discovered of him is to his honour. He was a very high royalist, but sincere, firm, and consistent.

His father was Richard Lane, of Courtenhall, in the county of Northampton, who, though of little wealth, was entitled to arms.\* Young Lane seems to have raised himself from obscurity by talent, industry, and perseverance. Having never set in parliament, nor been engaged in any great state prosecution, [A. D. 1639.] he had not much celebrity till the troubles were breaking out; but he was known to discerning men as an admirable lawyer as well as a steady friend of the prerogative, and in the hope that he might be useful to the Crown in the proceedings which were now anticipated, he was made Attorney General to the Prince of Wales.

Soon after this promotion the Long Parliament met, and Strafford was impeached for high treason. However much [MARCH, 1641.] Charles wished to protect him, he could not be defended by Banks or Herbert, the Attorney and Solicitor General to the Crown,—and Mr. Lane was retained as his leading counsel, along with Gardiner, Recorder of London, a man of great eminence in his profession, and Loe and Lightfoot, two promising juniors.

An order being made by the House of Lords for assigning them and giving them access to their client, the Commons most unreasonably complained that such a thing should be done without their consent, and inveighed with much bitterness against those lawyers that durst be of counsel with a person accused by them of high treason. Nay, one member went so far as to move that they should be sent for and proceeded against for their contempt; but it was suggested that they not only were obliged to it by the honour and duty of their profession, but that they would have been punishable for refusing to submit to the Lords’ order. It appeared too revolting to make this matter a breach of privilege, and the debate dropped. Such attempts at intimidation have ever been scorned by the bar of England, and Lane and his brethren were now only more eager and determined to do their duty at every hazard.

When Strafford was brought up to be arraigned, Lane made a heavy complaint of the length of the articles of impeachment, which contained the actions of the Earl’s service for thirteen years past, both in England and Ireland, and he prayed farther time to prepare the answer. This, after considerable difficulty, he obtained.

\* Herald’s Hist. of Northampton, A.D. 1618, c. 14.

During the seventeen days which the trial lasted on matters of fact, Lane and the other counsel were not allowed in the slightest degree to interfere, and the noble prisoner, unassisted, carried on against the most distinguished lawyers and statesmen of the country party, and against public prejudice and passion, that heroic struggle which seemed to render the result doubtful, and which shed such a lustre on his closing scene.

“ Now private pity strove with public hate,  
Reason with rage, and eloquence with fate;  
So did he move the passions, some were known  
To wish, for the defence, the crime their own.”

He then prayed that he might be heard by his counsel upon the question, whether any of the charges amounted to treason in point of law? and in spite of a stout resistance by the managers of the Commons, who felt that the case was going against them, leave was given.

The 17th of April, 1641, was the most memorable day in the life of [APRIL 14, 1641.] Lane. The commons resentfully refused to attend as a body, but almost all the members of the House were present from curiosity. The Scottish and Irish Commissioners filled the galleries; the King and his family were known to be in the royal closet, the Prince occasionally showing himself and nodding to his Attorney General; the uninclosed part of Westminster Hall was filled by an immense mass of anxious spectators from the city and from the provinces, once strongly incensed against Strafford, but now beginning to doubt his guilt, and strongly inclined to admire and to pity him. How insignificant in comparison was the trial of Warren Hastings, of which we have heard such boastful accounts from our fathers!

Lane surpassed all expectation. Knowing that a majority of Peers were now favourable to his client, and being unchecked by any opponents,—although he professed to carry himself with all content and satisfaction to the House of Commons, and to abstain from touching on the merits of the cause,—he said that it was impossible to argue the question of law without stating the facts (as he understood them) out of which that question arose. Accordingly he took a short, rapid, and dexterous view of the evidence adduced. Having then shown very distinctly and incontrovertibly that none of the charges amounted to treason under the statute of Edward III., which provides against “ compassing the King’s death, levying war against him, violating his companion, and counterfeiting his Great Seal,” but is entirely silent with respect to “ subverting the fundamental laws of the kingdom,” he came to the main point which had been urged by the Commons, “ whether the salvo in that statute as to parliament declaring a new case of treason could apply to a parliamentary impeachment ?” and he argued to demonstration that this power could only be exercised by parliament in its “ legislative capacity,”—that the House of Lords was then acting judicially according to promulgated law,—and that the Earl must be acquitted, unless he could be proved to have done

an act which had been legislatively declared treason before it was committed. He finally contended that, assuming the subversion of the fundamental laws of the kingdom to be high treason, one or more acts of injustice, whether maliciously or ignorantly done, could in no sense be called the subversion of the fundamental laws; for otherwise, possibly "as many judges, so many traitors," and all distinction and degrees of offences being confounded, every man who transgresses a statute may lose his life and his estate, and bring ruin on his posterity. He then went over all the cases supposed to be in point, from that of John de la Pole downwards, showing that, in the worst of times, no man had been convicted of treason except upon a specific charge of having violated one of the express provisions of the Statute of Treasons — a statute made to guard the subject from constructive and undefined offences against the government — a statute which had been the glory of Englishmen — for which respect had been professed by our most arbitrary sovereigns — but which was now to be swept away by those who avowed themselves the champions of freedom, and the reformers of all abuses.

He sat down amidst great applause; and, after a short address from the Recorder on the same side, — it being as late as between two and three o'clock in the afternoon, the House adjourned.\*

An acquittal was now considered certain; but in the night the parliamentary leaders entirely changed their plan of proceeding. Instead of praying the judgment of the Lords upon the articles of impeachment, they said they intended not to offer any reply to the argument of law made by Mr. Lane, it being below their dignity to contend with a private lawyer; and, next morning, they put up Sir Arthur Hazelrig, "an absurd, bold man," a pupil of Pym, and employed by the party on any desperate occasion, to prefer a bill in the House of Commons "for the attainder of the Earl of Strafford of high treason."

This bill was opposed by Selden and the more moderate lawyers on the liberal side; and could hardly have been pushed through but for the newly-discovered evidence brought forward by Sir Harry Vane respecting Strafford's declaration in Council, "that the King having tried the affection of his people, was absolved from all rule of government; and that the army from Ireland might reduce this kingdom to obedience." The effect was heightened by the disgraceful opinion obtained from the trembling Judges, that this charge amounted to high treason,

When the bill came up to the Lords, Lane having no longer an opportunity of being heard, Oliver St. John, who had accepted and retained the title of "King's Solicitor General," but was the most furious of the prosecutors of Strafford, boldly attempted to answer Lane's argument; and, feeling that he had failed, he unblushingly said, "that in that way of bill, private satisfaction to each man's conscience was sufficient; and why should they take such trouble about law in such a case? It was true we give law to hares and deer,

because they are beasts of chase ; but it was never accounted either cruelty or foul play to knock foxes and wolves on the head, where they may be found, because they are beasts of prey.”\*

After Strafford’s conviction, Lane remained in London quietly pur-  
[A.D. 1643.] suing his profession, and privately advising the Royalists, having ordered all the law Courts to be adjourned to Oxford, and the parliament, by an ordinance, having required them to continue sitting at Westminster, the cavalier lawyers thought they could no longer publicly practise in the metropolis without acknowledging the usurped authority of the Round-heads. While some of them took to convey-  
ancing and chamber business, Lane resolved to go to Oxford, where, although there was not likely to be much *pabulum* for barristers, he should at least testify his respect for the King’s proclamation, and his devotion to the royal cause. He had a strict private intimacy with Whitelock, afterwards Keeper of the Great Seal, although they were on opposite sides in politics ; and to him he intrusted his books and the furniture in his chambers in the Inner Temple, which, in the disturbed state of the country, he could not carry along with him. On his arrival at Oxford, his loyalty was rewarded with the honour of knighthood.

He found Lord Keeper Littleton, with the Great Seal sitting in the Philosophy Schools ; — and two or three Judges having joined, they went through the form of holding the Courts to which they respectively belonged. But there was no one to represent the Exchequer, and the office of Chief Baron being vacant, it was offered to Lane, who was considered at the head of the Oxford bar. He could not expect his salary to be very regularly paid, but he did not sacrifice a very lucrative practice, and he accepted the offer.

To be regularly installed as a Judge, he was first to be raised to the dignity of the coif, and, accordingly, in the roll of the proceedings under the Great Seal at Oxford, we have the following entry : —

“ 1643-4. January 25. M<sup>d</sup>. that Sir Richard Lane, Kt., the Prince’s Highness’ Attorney, made his appearance the first day of Hilary term at the Chancery bar in the Philosophy Schools at Oxford, and was there sworn a Serjeant-at-law, his writ being returnable Octobis Hillarij before the Right Hon<sup>ble</sup> Edward Lord Littleton, Lord Keeper of the Great Seal of England, in open court, Sir J. Colepeper Master of the Rolls, Doctor Littleton and Sir Thomas Mainwaring, Masters of the Chancery, being present, and the oaths of supremacy and allegiance, and the oath of a Serjeant-at-Law, were read to him by the Clerk of the Crown.”

The following day he was sworn in as Chief Baron in a corner of the Schools called the “Court of Exchequer, and likewise received the honour of knighthood, the Lord Keeper complimenting him on his loyalty and learning, which had procured him such special marks of the King’s favour,—and the new chief Baron expressing a hope

that, notwithstanding the recent successes of the rebels in England, from the assistance of our loyal brethren in Scotland and Ireland\*, they would speedily be put down, and his Majesty would be acknowledged as God's Vicegerent throughout all his dominions.

At this time there was a large batch of promotions at Oxford,— Hyde being sworn in Chancellor of the Exchequer, Cottington Lord Treasurer, Brerewood a Justice of the King's Bench, Colepeper Master of the Rolls and a Peer, Gardiner Solicitor General,— to say nothing of several Masters extraordinary in the High Court of Chancery;—and, I dare say, on the first day of the following Term, (although I do not find the fact recorded, and therefore do not venture to assert it,) there was a grand *levée* at the Lord Keeper's rooms in Christ Church, and a procession from thence to the Philosophy Schools,—where the Courts were opened in due form, the Counsel were asked if they had anything to move, and the Judges rose early—having at least this consolation, that they could not be reproached with the accumulation of arrears.

But Lane was soon after employed in a real and very serious business. After the battle of Marston Moor, the surrender of Newcastle, and the third battle of Newbury, [DEC. 1644.] the Royalists were so much disheartened that a negotiation for peace was proposed to the parliament, and Charles, instead of styling them as hitherto “the Lords and Commons of Parliament assembled at Westminster,” was induced to address them as “the Lords and Commons assembled in the parliament of England at Westminster.” The proposal could not be refused without incurring popular odium, and Uxbridge, then within the parliamentary lines, was named as the place of conference.

The King sent a list of his commissioners, “Sir Richard Lane, Knight, Chief Baron of his Exchequer, Hyde, Chancellor of the Exchequer, Gardiner, Solicitor General,” and the others with the dignities lately conferred upon them. The parliament took offence, having declared on Littleton's flight to York with the Great Seal, that all patents afterwards passing under it should be void, and they were particularly hurt that any one should be denominated “Solicitor General” except their beloved St. John, who under that title had been directing all their movements, and whom they intended to employ as their chief commissioner in this very treaty. They insisted therefore that Lane and the rest of the King's commissioners should be mentioned in the pass and in the full powers conferring authority upon them to negotiate for the King, simply by their names, without any office or dignity as belonging to them. This concession was made, and the royal ambassadors arrived at [JAN. 1645.] Uxbridge with a commission under the Great Seal, which was rejected, and another under the King's sign-manual, which was recognised as sufficient. The great bone of contention was still the

\* Alluding to Montrose and Glamorgan.

† Doques of patents at Oxon., Temp. Car. I.

militia, and Lane proved very clearly that by the ancient constitution of England the power of the sword belonged exclusively to the Sovereign, and that there could be no military force lawfully in the kingdom except under his warrant. The parliamentary commissioners did not much combat his law, but peremptorily insisted that the command both of the army and the navy should be in the two Houses,—a precaution indispensably necessary for the safety of those who had been standing out for the liberties of the nation. Twenty days were ineffectually consumed in such discussions—when the conference broke up. The pass was to expire next day, and as Lane and his colleagues might require two days to perform their journey to Oxford, they having spent two days in coming thence to Uxbridge, they were told by the parliamentary commissioners that they might safely make use of another day, of which no advantage should be taken; but they were unwilling to run any hazard, and they were in their coaches so early in the morning that they reached Oxford that night and kissed the hand of the King,—who received them very graciously, and thanked them for the pains they had taken in his cause. His Majesty was particularly pleased with the zeal and ability manifested by the Chief Baron in supporting his constitutional right to the power of the sword, and marked him for farther promotion.

Lane remained at Oxford with the sinecure office of Head of the Court of Exchequer during the disastrous campaign of 1645. The gleam of hope from Montrose's victories in Scotland was extinguished by the news of the fatal field at Naseby, the surrender of Bristol by [AUG. 27, 1645.] Prince Rupert, and the defeat of the royalists at Chester and Sherburn. In the midst of these disasters Lord Keeper Littleton had been suddenly carried off, while making an effort to provide for the safety of Oxford, now threatened on every side.

The Great Seal was little thought of till the King made good his retreat from Newark, and took up his winter quarters in this city. He still displayed unshaken firmness; the growing difference between the Presbyterians and Independents held out a prospect of his being able to obtain favourable terms from either of these powerful parties, and he looked forward to important assistance from Scotland and Ireland, by which he might be in a situation again to make head against the parliament. Whether for negotiation or action, it was important that he should keep up the appearance of a regular government;—and that he might make use of the Great Seal for proclamations and grants, he resolved to appoint a new Lord Keeper.

If he had had a wider choice he could not have selected a better man than the Lord Chief Baron, and when he proposed this appointment it was approved by the whole Council. Accordingly, on the [A. D. 1645.] 23d of October, "Sir RICHARD LANE, Knight, was sworn at the Philosophy Schools, in Oxford, into the office of Lord Keeper of the Great Seal of England, taking the oaths of supremacy and allegiance, the oath of office, together with the oath according to the statute lately made for issuing forth of writs

for summons of parliament, the Lord Treasurer and divers others being then present.”\* It has been said, that “the new Lord Keeper had neither a court, suitors, or salary†; but this is not altogether correct, for on the 17th of November following “a patent was granted to the Right Honourable Sir Richard Lane, Knight, Lord Keeper of the Great Seal of England, of 23*s. per diem* for his diet, and of 26*l. 13s. 4d. per annum* for a winter livery, and 13*l. 6s. 4d.* for a summer livery, and 300*l. per annum* pension out of the Hanaper, and of all such part of fineable writs to be answered by the Cursitors as former Lord Keepers have had, and of all other fees and allowances belonging to the office of Lord Keeper; the said allowances to begin upon and from the 30th day of August last, and so forwards, so long as he shall continue in the office.”‡ However, as all these allowances were to come from fees on grants and writs, it is to be feared that the Lord Keeper’s “diet, liveries, and pension,” were poorly provided for, and that having already contributed to the supply of the King’s wants the small remnant of his private fortune, he now found it difficult to conceal the poverty and misery with which he had to struggle. Only three patents are recorded as having passed the Great Seal after his appointment, one to make Sir Thomas Gardner Attorney General, another to make Sir Jeffrey Palmer Solicitor General, and the third for authorising the Master of the Rolls, and others, to hear causes in Chancery in the absence of the Lord Keeper.

In the following spring, Charles found that the offers made to him were only “devices to amuse the royal bird till the fowlers had enclosed him in their toils.” He resolved, therefore, rather than be taken prisoner by Fairfax and Cromwell, who were marching to lay siege to Oxford, to fly to the Scotch army encamped before Newark, and to throw himself upon the generosity of his countrymen. With a view to his flight, and that some order might be preserved for the safety of his friends when he was gone, he appointed a Council “for the better management of the garrison and defence of the city,” and placed the Lord Keeper at the head of it.

Great was the consternation in Oxford on the morning of the 27th of April, when the King was not to be found, and it was known that he had escaped at midnight, disguised as a servant, following his supposed master, Ashburnham, on the road to Henley.

Lane, however, behaved with courage and constancy, — resolved that if the place could not be successfully defended, it should not capitulate except on honourable terms. Cromwell, on hearing of the King’s escape, employed himself in schemes, by bribing the Scots, to get possession of his person, and Fairfax did not arrive before Oxford till the beginning of June. During the war, this city had been rendered one of the strongest fortresses of the kingdom. On three sides,

\* Doquets of patents at Oxford, Temp. Car. I.

† Parke’s Chanc. 117.

‡ T<sup>e</sup> apud Oxon. xvii<sup>o</sup>. Novemb. A<sup>o</sup>. R. R<sup>o</sup>. Caroli, xxi<sup>o</sup>.” Doquets, &c.

the waters of the Isis and the Charwell spreading over the adjoining country, kept the enemy at a considerable distance, and on the north it was covered by a succession of works erected by skilful engineers. The garrison now amounted to near 5000 men, the last remnant of the royal army, and a plentiful supply of stores and provisions had been collected in contemplation of another campaign. A stout resistance might have been made; but without the possibility of relief, it must have been hopeless, and all deliberation on the subject was put an end to by an order from the King addressed to the Governors of Oxford, Lichfield, Worcester, and Wallingford, the only places in the kingdom that still held out for him, whereby “the more to evidence the reality of his intentions of settling a happy and firm peace, he required them upon honourable terms to quit those places, and to disband all the forces under their command.”

The terms for the surrender of Oxford were negotiated by Lane. He wished much to have inserted an article, stipulating that he should have leave to carry away with him the Great Seal, the badge of his office, together with the Seals of the other Courts of justice, and the swords of state, which had been brought to Oxford; but to this Fairfax most peremptorily objected, under the express orders of the parliament, by whom they were considered the emblems of sovereignty. Rather than stand the horrors of an assault, Lane signed the capitulation, by which the Seals, along with the swords of state, were all delivered up.\*

On the 3d of July, the parliament with great exultation received a letter from Fairfax, signifying that he had sent by the Judge Advocate of the army the several seals and swords of state, surrendered at Oxford, under the fourth article of the treaty, to be disposed of as the two Houses should direct, and an order was immediately made, “that the King’s Great Seal, sent by the general from Oxon, be defaced and broken.” In the meantime, those seals were all delivered to Speaker Lenthal, to remain in his custody till the House should call for them.

The ceremony of breaking the King’s Great Seal took place with much parade on the 11th of August, the day fixed for the installation of the parliamentary Lord Keeper. Lenthal, appearing at the head of the Commons, produced it at the bar of the Lords. A smith being then sent for, it was by him openly defaced and broken, amidst much cheering,—and the fragments were equally divided between the Speakers of the two Houses.

I should have been delighted to relate that Charles’s last Lord

\* “Articles of agreement concluded and agreed on by his Excellency, Sir Thomas Fairfax, Knt., general of the forces raised by the parliament, on the one party, and the Right Honorable Sir Richard Lane, Knt., Lord Keeper of the Great Seal of England, &c., for and concerning the rendering of the garrison at Oxford.”

Art. IV. “That the seals called the Great Seal, Privy Seal, the signets, and the seals of the King’s Bench, Exchequer, Court of Wards, Duchy, Admiralty, and Prerogative, as also the sword of state, shall at such time and in the presence of two such persons as the General Sir Thomas Fairfax shall appoint, be locked up in a chest, and left in the public library.” — *Whit. Mem.* 210.

Keeper lived in an honourable retirement during the rule of those whom he considered rebels and usurpers, and survived to see the restoration of the monarchy under the son of his sainted Master; but I regret to say that I can find no authentic trace of him after the capitulation of Oxford. From the language of Lord Clarendon, it might be inferred that he did not long survive that misfortune\*, while others represent that he followed Prince Charles to the Continent, and died in exile.†

Wood relates that he left behind him a son, who, applying to White-lock for the books and effects left behind him in the Temple when he repaired to Oxford, was told by the republican that he had never known such a person.‡

Considering Sir Richard Lane's spotless integrity, and his uniform adherence to his principles,— notwithstanding his comparative obscurity and his poverty, he is more to be honoured than many of his predecessors and successors, who have left behind them a brilliant reputation, and ample possessions and high dignities to their posterity.

Although the life of Charles was prolonged near two years and a half from the time when Lane surrendered the Great Seal to the parliament, yet he never appointed another Chancellor or Lord Keeper, and his reign may be considered as having then closed. We must therefore now take a retrospect of the changes which the law underwent while he was upon the throne.

In consequence of the abrupt dissolution and long intermission of parliaments, only fifty-one public acts were added to the statute-book in this reign, and by none of these was the letter of the law materially altered. But an unspeakable improvement was introduced into the practical administration of justice by the suppression of the Star Chamber. Not only was the pretension of legislating by proclamation gone with the power of enforcing it, but trial by jury was secured to all who were charged with common-law offences, and there was much less danger of cruelty in the infliction of discretionary punishment when the sentence was not to be pronounced by the ministers of the

\* Hist. Reb. part iii. 778.

† By the kindness of my friends at the Heralds' Office, I am now enabled to clear up this difficulty. There is extant a commission to the Lady Margaret, his widow, dated 22 April, 1651, to administer to his effects, stating that he had died in France.

Lady Margaret survived until 1669, when she was buried in Kingsthorpe Church, where there is this inscription:—

“Here lieth the body of the Lady Margaret Lane, late wife to the Right Honorable Sir Richard Lane, Lord Keeper of the Great Seal of England to K. Charles the First and K. Charles the Second; who dyed in his banishment for his loyalty to the Crown. She departed the 22 day of April 1669.”

See Brydge's Hist. of Northampton, i. 412.

‡ Ath. Ox. vol. ii.

Crown, who had instituted the prosecution, and who tried to outbid each other for royal favour by the severity they displayed.

The King, on the petition of the two Houses, agreed to make out the Judges' patents *quamdiu se bene gesserint*, instead of *durante bene placito*, but this concession, not being secured by statute, was disregarded by his sons, and the independence of the Judges was not properly provided for till the reign of King William III.\* There is no ground, however, for the vulgar error, that the Judges were all removable at the will of the Sovereign till the reign of King George III., who, in reality, acquired his popularity on this subject merely by taking away the power of his successors to remove Judges on their first coming to the throne.

The Triennial Act† was a noble law, and framed for the real benefit of the Crown as well as of the subject, notwithstanding the stringent clauses authorising elections, on a certain contingency, without the King's writ. Had it not been inconsiderately repealed by Lord Clarendon, the Stuart dynasty might long have ruled over England.

Considering the insane conduct of the Bishops during the first two Stuart reigns, so severely condemned by Lord Clarendon and all true friends of the monarchy, it is not wonderful that the act should have passed for depriving them of their seats in the House of Lords‡; but I cannot consider this a permanent improvement in the constitution; for hereditary honours and wealth are so enervating, that the Upper House could scarcely at all maintain its position without the infusion of fresh blood from the church as well as the law; and by reason of the talents and character of the right reverend bench, its proceedings are more effective and more respected. I therefore rejoice that this act was condemned at the Restoration, and I trust that there never will be occasion for repealing the act by which it was repealed.

The Courts of common law were filled with able Judges in this reign, but their decisions are badly reported by Crooke, and others still more loose and indiscriminating; and till Saunders arose, there was no legitimate successor of Plowden and Coke.

Equity as a system made little progress. Coventry was contented to dispose of each case that came before him according to his notions of what was right, without laying down any broad general principles; and Finch, Littleton, and Lane were too much occupied with political broils to think of judicial improvement.§

\* 13 W. 3. c. 2.

† 16 Car. 1. c. 7.

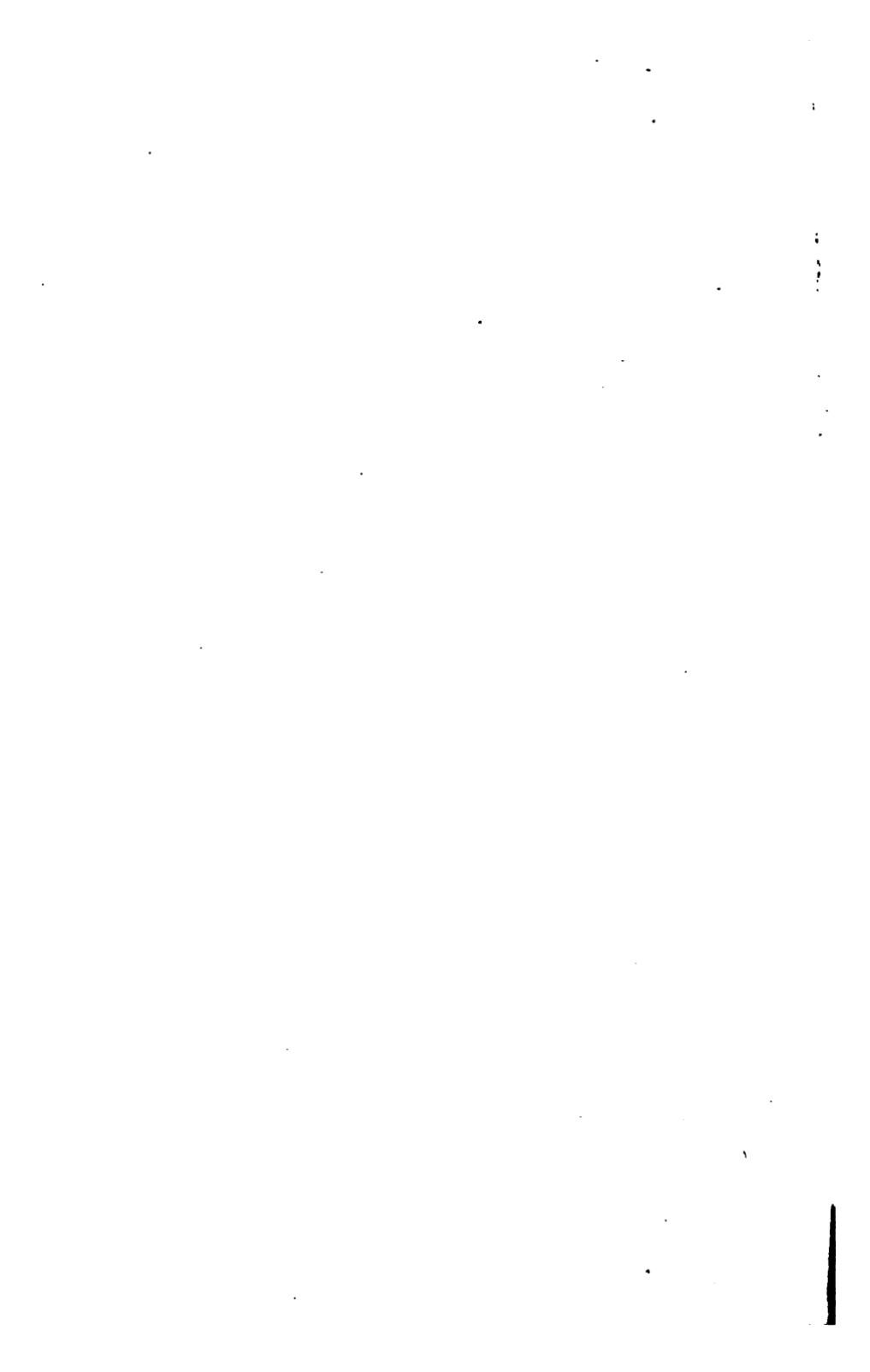
‡ 16 Car. 1. c. 27.

§ See Tothill; Nelson's Chancery; Reports in Chancery, vol. i.; Godbolt's Reports; Popham's Reports.









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